The Gazette of India

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

संब् 42]

नई विल्ली, शन्तिवार, अन्तुबर 19, 1968/म्र दिवन 27, 1890

No. 42]

NEW DELHI, SATURDAY, OCTOBER 19, 1968/ASVINA 27, 1890

इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे कि यह ग्रलग संकलन के रूप में रखा जा तके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

नीटस

NOTICE

नीचे लिखे भारत के ग्रसाधारण राजपत्र 5 श्रक्तुबर, 1968 तक प्रकाशित किये गर्ये :---

The undermentioned Gazettes of India Extraordinary were published up to the 5th October, 1968:—

Issue No.		Issued by	Subject
338	S. O. 3387 dated 18th September, 1968.	Ministry of Commerce	Amendment to the notification No. 3413, dated 20th September, 1967.
	S. O. 3388, dated 18th September, 1968.	Do.	Corrigendum to S. O. 34129 dated 20th September, 1967.
3 39	S. O. 3389, dated 18th September, 1968.	Ministry of Home Affairs	President's rule in the Union territory of Pondicherry.
340	S. O. 3390, dated 18th September, 1968.	Election Commission of India.	Making corrections in the description of the assembly constituencies No. 4-Tening and 5-Percn in Kohima district given in schedule XII of the Delimitation of Parliamentary and Assembly Constituencies Order, 1968.

Issue No.	No. and Date	Issued by	Subject
341	S. O. 3391, dated 19th September, 1968.	Ministry of Commerce	Amendments to the notifica- tion No. S. O. 3212 dated 7th September, 1967.
	S. O. 3392, dated 19th September, 1968.	Do.	The Export of Sewing Ma- chines (Quality Control and Inspection) Amend- ment Rules, 1968.
342	S. O. 3393, dated 19th September, 1968.	Cabinet Secretariat	The Government of India (Allocation of Business) Rules, 1961.
343	S. O. 3394 dated 20th September, 1968.	Ministry of Commerce	Amendment to the notifi- cation No. S. O. 3226, dated 8th September, 1967.
344	S. O. 3395, dated 27st September, 1968.	Ministry of Food, Agri- culture, Community Development and Co-operation.	prices of Vegetable Oil
345	S. O. 3396, dated 23rd September, 1968.	Ministry of Home Affairs	Extending the period up to 31st December, 1968 in which the Commission of Inquiry shall make its report.
346	S. O. 3397, dated 23rd September, 1968.	Ministry of Information and Broadcasting.	Approval of the films as specified therein.
347	S. O. 3462 dated 24th September, 1968.	Ministry of Railways	Appointment of Shri N. G. Choudhury, District Judge, Jalpaiguri as ad hoc claims Commissioner from 7th August, 1968.
	ए स० भ्रो० 3463, दिनोक 24 सितम्बर, 1 9 68.	रेत मंत्रालय ज	लप ेगुड़ी के डिस्ट्रिक्ट जज, श्री एप० जी० चौधरी को 7 श्रगस्त 1968 से तदर्थ दावा कमिश्नर नियुक्त करना।
348	S. O. 3464, dated 25th September, 1968.	culture, Community	Delegation of powers in relation to prices, stocks and movements of Cattle fodder to the Collectors of certain districts of the State of Gujarat mentioned therein.
349	S. O. 3455, dated 25th September, 1968.	Ministry of Finance	Extending the period of tenure upto 31st October, 1968 for submitting its interim report by the Finance Commission.
₹	एस० ग्र [े] ० 3466, दि [ः] गंक	वित्त मंत्रालन	वित्त प्रयोग की फ्रोर से फ्रानी
:	25 सितम्बर 1968		म्रन्तरिम रिपोर्ट 31 म्रक्तूबर 1968 तक पेश करना।

Issue No.	No. and Date	Issued by	Subject
350	S. O. 3489, dated 26th September, 1968.	Ministry of Labour, Employment and Rehabilitation.	The Kandla unreigstered Dock Workers (Regu- lation of Employment) Scheme, 1968.
.351	S. O. 3490, dated 26th September, 1968.	Ministry of Food, Agriculture, Community Development and Cooperation.	Constitution of the Central Seeds Committee.
1	एस० ग्रो० ३४.91, दिनांक स	बाद्धा, कृषि, सरपुद∷यिक	केन्द्रीय बीज समिति बनःना ।
	26 सितम्बर, 1968.	विकास तथा सहकारिता मंत्रालय	
352	S. O. 3492, dated 27th September, 1968.	Ministry of Commerce	Quality Control and pre- shipment inspection of electric cables and conduc- tors.
	S. O. 3493, dated 27th September, 1968.	Do.	The Export of Electric Cables and Conductors (Inspection) Rules, 1968.
353	S. O. 3494, dated 27th September, 1968.	Central Board of Direct Taxes.	The Income-tax (Sixth Amendment) Rules, 1968.
351	S. O. 3495 dated 27th September, 1968.	Do.	The Income tax (Seventh Amendment) Rules, 1968.
355	S. O. 3496, dated 28th September, 1968.	Ministry of Commerce	The Export of Safety Glass (Inspection) Rules, 1968.
356	S. O. 3497, dated 28th September, 1968.	Ministry of Finance	Notifyng the Life Insurance Corporation of India as a financial institution.
	S. O. 3498 dated 28th September, 1968.	Do.	Notifying the Life Insurance Corporation of India as a financial institution.
357	S. O. 3498, dated 28th September, 1968.	Ministry of Home Affairs	Extending the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Bihar.
358	S. O. 3500, dated 28th September, 1968.	Ministry of Finance	Extending the period for the making of declarations by licence dealers and refiners upto and inclusive of the 31 day of October, 1968.
359	S. O. 3501, dated 3rd October, 1968.	Ministry of Commerce	Amendment to notification No. S. O. 1616, dated 7th May, 1968.
360	S. O. 3502, dated 3rd October, 1968.	Election Commission of India.	Amendments to notification No. 56/68—VIII (S. O. 2960), dated 31st August, 1968.

Issue No.	No. and Date	Issued by	Subject
361	S. O. 3503, dated 3rd October, 1968.	Ministry of Labour, Employment and Re- hablitation.	Prohibiting the continuance of the strike in the port of Cochin.
	S. O. 3504, dated 3rd October, 1968.	Do.	Referring the dispute between the boat-owners and contractors operating in the port of Cochin and their workmen for adjudication to the Central Government Industrial Tribunal, Bombay.
	S. O. 3505, dated 3rd October, 1968.	Do	Referring an industrial dispute between the management of M/s. Sesa Goa Private Limited and their workmen for adjudication to the Central Government Industrial Tribunal, Bombay.
362	S. O. 3506, dated 4th October, 1968.	Ministry of Commerce	Amendment to the notifica- tion No. 1197, dated 15th April, 1966.
	S. O. 3507, dated 4th October, 1968.	Do.	The Export of Organic Chemicals (Inspection) Rules, 1966.
	S. O. 3508, dated 4th October, 1968.	Do.	Amendment in the notifica- tion No. S. O. 480, dated 9th February, 1966.
363	S. O. 3509, dated 4th October, 1968.	Do.	The Woolen Textiles (Production and Distribution Control) Amendment Order, 1968.
364	S. O. 3510, dated 4th October, 1968.	Ministry of Law	Election to the Council of States by the Elected Members of the Rajasthan Legislative Assembly.
365	S. O. 3511, dated 4th Octo ber, 1968.	- Ministry of Finance	Appointing the port at Pindhara in the State of Gujarat as a Customs port for the unloading of imported goods and the loading export goods.
366	5 S. O. 3512, dated 5th October, 1968.	Ministry of Labour, Employment and Rehabilitation.	Arbitration agreement in relation to the management of Messrs. Ghusik and Musia Collicries Limited, Post Office Kalipahari District Burdwan and their workmen represented by the Colliery Mazdoor Sabha Post Office, Raniganj, District Burdwan.

Issue No. and Date Issued by Subject No.

367 S. O. 3513, dated 5th Octo- Ministry of Commerce Amendment to notification ber, 1968.

No. 771, dated 6th March, 1965.

ऊपर थियो ससाधारण राजपत्नों की प्रतियां प्रकाशन प्रवन्धक, सिविल लाइन्स, दिल्ली के नाम मांगपत्र भेजने पर भेज दी जायेंगी। मांगपत्र प्रवन्धक के पास इन राजपत्नों के जारी होने की तारीख स 10 दिन के भीतर पहुंच जाने चाहिए।

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

भाग II—सन्त 3—उपलब्ध (ii) PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों ग्रौर (संघ क्षेत्र प्रशासन को छोड़ कर) केन्द्रीय प्राधिकरएों द्वारा जारी किए गए विधिक ग्रावेश ग्रीर ग्रधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION OF INDIA

New Delhi, the 31st August 1968

S.O. 3623.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order pronounced on the 13th June, 1968, by the High Court of Jammu and Kashmir at Srinagar, in Election Petition No. 1 of 1967.

HIGH COURT OF JAMMU AND KASHMIR, SRINAGAR

PRESENT:

The Hon'ble Mr. Justice J. N. Bhat.

ELECTION PETITION No. 1 of 1967

Shri S. L. Saraf

Vs.

Shri M. S. Qureshi and another.

Election Petition.

Messrs T. R. Bhasin, P. L. Handoo and R. N. Kaul.

Messrs A. K. Sen, O. N. Tikkoo, and K. N. Raina-

Mr. A. N. Raina for Intervener-

Memo. for the respondent No. 2.

Shri Sham Lal Saraf, the petitioner, seeks to challenge the election of the respondent No. 1, Shri Mohammed Shafi Qureshi to the Parliamentary Constituency Anantnag, Kashmir in the last general elections of 1967. The petitioner and the two respondents Messrs. Mohammad Shafi Qureshi and Rugh Nath Vaishnavi respondent No. 2 sought to contest this election. The petition recites that the petitioner is a resident of the State of Jammu and Kashmir, and is registered as a voter in the Parliamentary Constituency Srinagar District. The

registered voters of the Parliamentay constituencies in the State of Jammu and Kashmir were called upon to elect their representatives to the House of People. Kashmir were called upon to elect their representatives to the House of People. The nomination papers were to be filed before the Returning Officer (hereinalter referred to as R.O. in this judgment) between the hours of 11 O'clock to 3 P.M. each day from 13th of January 1967 to 20th of January 1967. The petitioner belongs to the National Conference party and the respondent No. 1 to the Indian National Congress party, both of which parties were recognized by the Election Commission. On 20th January 1967, accompenied by his proposer, the petitioner went to file his nomination papers in the office of the R.O., who was the Deputy Commissioner/District Magistrate Anantag. He found the R.O. absent from Commissioner/District Magistrate Anantnag. He found the R.O. absent from his office. The matter was telephonically reported to the Deputy Electoral Officer by the petitioner's proposer. At about 2 P.M. the Assistant Returning Officer (hereinafter referred to as A.R.O. in the Judgment) of this Parliamentay constituency, who was the Assistant Commissioner Anantnag, came to his office. The petitioner alongwith his proposer approached him to accept the nomination paper of the petitioner and accept the necessary election deposit. This gentleman was not inclined to accept the nomination paper of the petitioner for a pretty long time and on the insistance of the petitioner's proposer told the petitioner and his proposer that he would accept the nomination paper only if the R.O. would not come to his office till 10 minutes to 3 P.M. The A.R.O. accepted the nomination paper of the petitioner at 2.55 P.M. and recorded on the back of the nomination paper that he had accepted it because of the insistence of the petitioner. The A.R.O. signed it as Assistant Commissioner and he was persuaded by the petitioner's proposer to put three letters' A.R.O. meaning Assistant Returning Officer, with the word Assistant Commissioner. The election deposit was made by the petitioner and a receipt obtained from the Assistant Returning Officer. During the night of the 20th January, 1967, the petitioner received a telegram from the A.R.O. Designating himself as R.O. informing the petitioner that the scrutiny of his nomination paper would be taken up on 21st instant at 11 in the morning. This telegram was unintelligible to the petitioner but it confirmed the scrutiny of his nomination paper would be taken up on 21st instant at 11 in the morning. This telegram was unintelligible to the petitioner but it confirmed the suspicions that the R.O. had earlier on the same day manouvered his absence from his office according to a plan and there was something more up his sleeve for the 21st January, 1967, the date of the scrutiny. The petitioner's proposer informed the Chief Election Commissioner New Delhi about the happenings till 2.45 P.M. on 20th January, 1967. The Dy. Chief Electoral Officer, Srinagar, was also informed on telephone. On 21st January 1967, the petitioner reached the office of the R.O. much before 11 O'clock and waited alongwith his proposer and other friends and colleagues in his office. As soon as the R.O. entered the room the petitioner's proposer sought permission of the R.O. to allow the petitioner to read and subscribe to the oath of allegience as required by Section 84 of the Constitution of India. The R.O. did not agree but surprised the petitioner and his proposer by telling them that the scrutiny of the nomination papers of the petiread and stoscribe to the bath of alregience as required by Section of the Constitution of India. The R.O. did not agree but surprised the petitioner and his proposer by telling them that the scrutiny of the nomination papers of the petitioner would be conducted by the A.R.O. where the nomination papers of the petitioner were lying at that time. The petitioner's proposer pointed out to the R.O. that the A.R.O. had no jurisdiction to conduct the scrutiny when the R.O. was present in his office and it would be very strange that the scrutiny of the nomination papers of the petitioner would be effected by the A.R.O. and that of the two other candidates by the R.O. There was no warrant in law for such a procedure. Respondent No. 1, the candidate of the Congress party entered the room of the R.O. and sought an adjournment of the proceedings before him for half an hour as he had to present himself before the A.R.O. for the scrutiny of the nomination paper of the petitioner. The insistence of the petitioner or his proposer before the R.O. for conducting the scrutiny of his nomination paper by him proved of no avail and they therefore went to the A.R.O., whose room is adjacent to the room of the R.O. The petitioner his proposer and other colleagues found the papers of the petitioner before the A.R.O. and the respondent No. 1 asked the A.R.O. to conduct the scrutiny of the nomination papers of the petitioner. It was pointed out by the petitioner's proposer to the A.R.O. that he had no jurisdiction to conduct the scrutiny and his action would be illegal and without jurisdiction. They demanded that the question of jurisdiction should be decided first. The A.R.O. after hearing the parties over-ruled this preliminary objection of the diction. They demanded that the question of jurisdiction should be decided first. The A.R.O. after hearing the parties over-ruled this preliminary objection of the petitioner and his proposer pertaining to jurisdiction and started conducting the scrutiny. The petitioner and his proposer requested the A.R.O. to permit the pertitioner to make and subscribe to the oath as required by the Constitution but he did not permit the petitioner to do so. On a perusal of the nomination paper of the petitioner by the respondent No. 1, the respondent No. 1 raised an objection to the nomination paper of the petitioner that as there was no oath form attached with the nomination paper of the petitioner, the nomination paper was liable to be rejected. This found favour with the A.R.O. and the A.R.O. verbally pronounced the order of rejection of the Nomination paper of the petitioner. The

petitioner further states that he is a citizen of India and has been a member of the J. & K. Legislative Assembly for over a decade and was elected to the Lok Sabha in the year 1962 and owed and owes unfaltering faith to the Constitution of India and regards every mandate of the Constitution as something which a citizen of India should feel proud to live and die for. By rejecting the nomination paper of the petitioner, the result of the election has been materially affected. The order of the A.R.O. is without jurisdiction and is baseless in law. Respondent No. 2 was also and duly nominated candidate, his nomination paper was also improperly rejected by the R.O. and for that reason too the election of the respondent No. 1 was liable to be set aside. As the A.R.O. had no authority to conduct the scrutiny of the nomination paper of the petitioner it is prayed that the election of the respondent No. 1 be declared void and set aside, and appropriate costs be awarded. The petitioner deposited Rs. 2,000/- as security in terms of Section 117 of the Representation of People Act, 1951.

This petition was sought to be amended by the petitioner by means of his application dated 15th June, 1967. The amendment sought to be effected by means of this application will be mentioned a little later after I summarize the written statements of the two respondents.

Respondent No. 1 filed his first written statement on 26th May, 1967. The pleas raised in the written statement of the Respondent No. 1 in reply to the petition of the petitioner are as follows:—

The petitioner was not a duly proposed candidate for election to the Parlinment from the Anantnag Constituency because his nomination paper was not accompanied by the requisite oath form. The Respondent No. 1 does not know what time the petitioner reached the office of the R.O. on the first day nor does he know about the telegraphic communication between the petitioner and the Electoral officer of the constituency. The R.O. of the Anantnag Parliamentary constituency was also the District Magistrate of Anantnag. As far as the Respondent No. 1 knows the law and order situation in Tral was getting bad on 20th January 1967 and the Returning Officer being in-charge of the law and order in the entire District had to go personally to Tral and for some time he was not in his office. He had duly authorised one of his A.R.O.'s, there were more than one for this Constituency, to receive the normalistic representation to the Parliamentary. Constituency to receive the nomination papers for election to he Parliamentary constituency. The petitioner did not go to the authorised R.O. and insisted upon constituency. The petitioner did not go to the authorised R.O. and insisted upon the un-authorised A.R.O. to receive his nomination paper. The nomination paper of the petitioner was not accompanied by the requisite oath form or a certificate to that effect as required by law. It was not a proper nomination form. The petitioner had tried to magnify the small matters which had no bearing on the election of the respondent No. 1. The telegram alleged to have been sent by the A.R.O. to the petitioner on 20th January 1967 must have been issued in confirmation of the earlier information communicated to the petitioner about the scrutiny to be held on 21st of January, 1967. On 21st of January, 1967 the date fixed for scrutiny of the nomination papers, the R.O. having had to deal with the deteriorated law and order situation at Tral where there had been firing and some deaths ed law and order situation at Tral where there had been firing and some deaths as a result thereof, was not sure about his being able to attend to the scrutiny personally. He had on the previous day authorised the A.R.O., who received the nomination paper of the petitioner, to start on 21st January, 1967, the scrutiny of the nomination papers filed both before the R.O. and the A.R.O. in case the R.O. could not, due to circumstances stated above, be personally present to do so. The R.O. had specifically authorised the A.R.O. to carry on with the scrutiny till such time as the R.O. returned and the R.O. came to his office when the petitioner's nomination paper had been duly scrutinized by the A.R.O. and the order of rejection announced. The R.O. was not in his office till 11 a.M. on 21st January, 1967. The A.R.O. started the scrutiny as authorised and directed by the R.O. After that the R.O. came and called for the other unscrutinized nomination papers from the A.R.O. and accretional papers from the A.R.O. when the R.O. came and called for the other unscrutinized nomination papers. nation papers from the A.R.O. and scrutinized them personally. When the R.O. was unavoidably absent to effect the scrutiny, the A.R.O. was justified to conduct the scrutiny. No permission to read and subscribe to the oath was ever sought by the petitioner. It is in the alternative pleaded that even if an attempt was made to make and subscribe to the oath after the question of jurisdiction that the subscribe to the oath after the question of jurisdiction that the subscribe to the oath after the question of jurisdiction the oath after the question of jurisdiction to the oath after the question of jurisdiction the oath after the question of jurisdiction to the oath after the question of jurisdiction the jurisdiction the oath after the question of jurisdiction the juris was decided against the petitioner, that would not render the nomination paper of the petitioner valid. But as a matter of fact no offer to take and subscribe to the oath was made. Even when the respondent No. 1 took the objection on account of the absence of the oath forms, no offer was made to take and subscribe to the oath. The petitioner's claim that he has been a member of the Legislative Assembly for over a decade or of the Lok Sabha since 1962 has no bearing as the essential pre requisite for being eligible to stand for an election to the Lok Sabha is to make and subscribe to the oath which the petitioner did not do. The fact

that the nomination paper of the respondent No. 2 was wrongly rejected is denied. It is stated that the respondent No. 2 also had failed to make and subscribe to the oath as required by the Constitution nor had he filed any oath form with the nomination papers. The nomination papers of the respondent No. 2 and of the petitioner were properly rejected. The petition deserved dismissal with costs.

The respondent No. 2 in his written statement filed on 26th May, 1967 admitted most of the contentions in the petition and added in reply to Para. 20 of the petition which is the paragraph pertaining to the rejection of his nomination paper in the petition as follows:—

That he was a duly nominated candidate and his nomination paper was improperly rejected by the R.O. He stated that he took the oath and read out the same and subscribed to it as prescribed by law in this behalf and each and every requirement laid down by the Constitution in this respect was duly complied with by the respondent No. 2 and the certificate to this effect was recorded by the R.O. on each one of the four oath forms which the said R.O. took into his custody on 19th January 1967, alongwith the four nomination papers of the respondent No. 2. It may be stated that the respondent No. 2 and the respondent No. 1 both filed their nomination papers before the R.O. on 19th of January 1967. This respondent had shown to the R.O. at the time of the presentation of his nomination paper, the electoral roll of Srinagsr Parliamentary constituency containing the name of the respondent No. 2 and he was asked to present it at the time of scrutiny. On the day of scrutiny he found that the four oath forms presented by him on the 19th of January 1967 before the R.O. alongwith the nomination papers had been removed and his nomination paper was rejected on the ground that he had failed to make and subscribe to the oath. No other ground was mentioned by the R.O. while rejecting his nomination paper. The R.O. had later on falsely and fraudulently stated in his order that the respondent No. 2 had failed to produce the electoral roll. The respondent No. 2 had complained to the Chief Election Commissioner of India about the tampering of the record and making false and fraudulent additions in the said order of rejection. This respondent also presented copies of letters sent by him to various gentlemen and dignitaries.

The learned advocate of the respondent No. 1 by means of his application dated 13th June, 1967, presented on 14th June 1967, sought permission to amend his written statement. The amendments sought were as under:—

- "(a) The readiness to take the oath on the date of scrutiny or the refusal of the Returning Officer not to administer oath on the date of scrutiny is not relevant to the scope of enquiry and does not constitute a ground for the improper rejection of the nomination paper.
- (b) The rejection for the non-compliance of the provisions of S-51 of the Constitution does not constitute improper rejection of the Nomination paper."

The petitioner also by means of his application dated 15th June. 1967 presented on 16th June 1967 sought permission to amend certain paragraphs of his petition. The petitioner sought to amend paras. 19, 20, 23 and 11 of the petition. In paras 19, 20, and 23 in substance the following words were sought to be added:—

"The election of respondent No. 1 is void because of improper rejection of the petitioner's nomination paper, and non-compliance with the provisions of Constitution and of the Representation of the People Act 1951, and the orders made under this Act by the Returning Officer and the Assistant Returning Officer by which the result of the election in so far as it concerns the respondent No. 1 who is a returned candidate has been materially affected."

And in para 11 the words "a little before 11 A.M." were sought to be added after the words "the Returning Officer entered the room."

These applications were opposed by the other side but ultimately were disposed of by my order dated 26th June 1967 which is a detailed one. I permitted the petitioner as well as the respondent No. 1 to make the amendments as prayed for by them. Consequently amended pleadings were put in.

Another application was moved by the learned counsel for the respondent No. 1 on 6th of June, 1967, that the name of the respondent No. 2 be struck off from the proceedings under Order 1 Rule 10 of the Code of Civil Procedure but this application was not seriously pressed by the respondent No. 1 subsequently.

An application was moved by Syed Mir Qasim on 23rd of May, 1967 for being added as an Intervener. This was opposed by the petitioner and the respondent No. 2 but ultimately by my order dated 1st of June 1967. I permitted Syed Mir Qasim to be added as an Intervener for the limited purpose of arguing the law points raised in this case. But in view of the subsequent developments and the authority of the Supreme Court as that point has lost importance it is not mentioned in detail.

Respondent No. 1 further put in an application on 3rd of July 1967 for review of my order, dated 26th of June 1967, but that application was rejected by me on 11th of July, 1967.

The respondents filed their written statements to the amended petition of the petitioner on 4th July, 1967 and 27th June 1967. After this chequered career issues in this case were struck on 11th of July 1967. Issue No. 8 was recast by means of my order dated 11th of August 1967. The final issues on which evidence was led by the parties, which arose from the pleadings of the parties, are as under:—

- Was not the A.R.O. empowered to receive the nomination papers of the petitioner? O.P.R.I.
- 2. Whether the R.O. was unavoidably absent from his head-quarters on 21st January 1967 on account of law and order situation in Tral and had therefore authorised the A.R.O. to start the scrutiny of the nomination papers in case the R.O. could not be personally present on spot on 21st of January 1967 at 11 A.M. O.P.R.I.
- 3. (a) On proof of issue 8, whether the scrutiny of the nomination paper of the petitioner by the A.R.O. was without jurisdiction? O.P.P.
- (b) If issue No. 2 is not proved, is the scrutiny of the nomination paper of the petitioner by the A.R.O. valid and proper? O.P.R.I.
- 4. Whether on 21st January 1967 on entry of the R.O. into his office a little before 11 AM. the proposer of the petitioner got up and sought permission of the R.O. for allowing the petitioner to read and subscribe to the oath of allegiance as required by Art. 84 of the Constitution of India? O.P.P.
- 5. Whether on the request of the proposer of the petitioner to allow the petitioner to make and subscribe to the oath of allegiance, the R.O. did not permit the petitioner to make and subscribe to the oath, and directed the petitioner to present himself for scrutiny before the A.R.O.?. O.P.P.
- 6. If issues 4 and 5 or both are proved, what is the effect on this election petition? O.P.P.
- 7. Did the R.O. on 21st January 1967 adjourn the scrutiny of the nomination paper of respondent No. 1 and 2 for half an hour on the request of respondent 1 to enable him to be present at the scrutiny of the nomination paper of the petitioner by the A.R.O.? O.P.P.
- 8. When after the A.R.O. had rejected the contention of the petitioner with regard to the jurisdiction of the A.R.O. to conduct the scrutiny of the nomination paper of the petitioner, did the petitioner's proposer seek permission of the A.R.O. for enabling the petitioner to read and subscribe to the oath as required by the Constitution of India?
- Whether the A.R.O. rejected this request of the petitioner's proposer?
 If so, what is its effect on the election petition? O.P.P.
- Was the nomination paper of the petitioner improperly rejected by the A.R.O.? O.P.P.
- 11. Was the nomination paper of respondent 1 improperly accepted by the R.O.? O.P.P.
- 12. Was the nomination paper of respondent 2 improperly rejected by the Returning Officer? O.P.P.
- 13. Whether the rejection of the nomination paper of the petitioner being based on a constitutional disqualification is a valid ground for rejection of the petitioner's nomination paper? O.P.R.I.

After the issues were framed, the parties filed their list of witnesses, the petitioner on 29th of July 1967 and the respondent No. 1 on 25th of July 1967. The respondent No. 2 did not produce any evidence nor furnish any list of witnesses, nor did he intend to do so, vide his statement dated 13th of September

1967. He did not after some time follow or attend the proceedings even. Evidence of the petitioner started from 9th of August, 1967.

Before I discuss the evidence or record my finding on various issues, I have to offer an explanation for the delay in the disposal of this election petition. The interim orders passed in this petition are detailed and self speaking. But what was mainly responsible for the length of time that this case took was that the evidence of the petitioner was closed on 13th of September 1967. The respondent No. 1's evidence started from 29th of September 1967. Then there were some disturbances in the Valley which did not permit the respondent No. 1's witnesses to be examined in Kashmir, the witnesses oeing the Deputy Commissioner and Assistant Commissioner and Station House Officer who were reported to be busy with law and order situations. Later on the case was taken to Jammu where the witnesses could not turn up because of bad weather, the Banihal road being blocked for a pretty long time. The evidence of the respondent No. 1 could not be finished in Jammu, as the respondnt No. 1, who is a Deputy Minister in the Union Cabinet, had gone out of India. The evidence of respondent No. 1 however was recorded on 13th and 14th of May 1968. An adjournment was sought for arguing the case.

The petitioner produced three witnesses, Messrs Plary Lal Handoo, Syed Nizam-ud-Din, Rughnath Vaishnavi respondent No. 2 and appeared himself as his own witness. Similarly the respondent No. 1 produced three witnesses namely Syed Muzaffar Indrabi Assistant Commissioner Anantnag, A.R.O., Mr. M. A. Khaliq Deputy Commissioner-cum-District Magistrate, Anantnag, R.O. and Hakim Ghulam Rasul Station House Officer, Awantipora and himself also appeared as his own witnesses. The statements of witnesses are very very long and no useful purpose would be served in summarizing those lengthy statements. The statements of different witnesses will be discussed while discussing the relevant issues—that would both save time and duplication of labour.

According to me issues 2 to 7 are connected. They pertain to the alleged absence of the R.O. from his Headquarters on 21st of January 1967 at 11 a.M., the time of his coming to Office that day, and the matters upto the time the nomination paper of the petitioner was taken up for scrutiny by the A.R.O. Issues 8, 9 and 10 pertain to the part played by the A.R.O. in this case and his competence to hold the scrutiny and rejection of the nomination paper of the petitioner by him, Issue No. 11 pertains to the improper acceptance of the nomination paper of the respondent No. 1 and issue No. 12 pertains to the improper rejection of the nomination paper of the respondent No. 2 by the R.O. Issue No. 13 is more or less a constitutional issue. Therefore these issues will be discussed according to the grouping above mentioned.

Now beginning with issue No. 1, this issue was not seriously pressed by the respondent No. 1's learned counsel at the time of arguments. But the basis of this issue is the endorsement of the A.R.O. on the back of the nomination Paper of the petitioner wherein he has stated that he was not one of the officers mentioned in Column 6 of the Notification issued to receive the nomination papers, but it was on the insistence of the petitioner that he had received this nomination paper. This endorsement which is marked as Ex. PW 1/5 is entirely misconceived. It is admitted by the R.O. in his statement of 6th March, 1968 that a notification was issued on 2nd of January, 1967 by the Election Commission wherein the Deputy Commissioner Anantnag had been designated as the R.O. of this Constituency and another notification of the Commission dated 29th of December, 1966 had mentioned the Assistant Comissioner as the A.R.O. Mr. Pearey Lal Handoo, the petitioner's witness also states that there was a Notification making all the R.O.s of the Assembly Constituencies as the A.R.O.s for the Parliamentary Constituency. Mr. Indrabi A.R.O. also admits that there was a notification that all the R.Os of the Assembly Constituencies would be A.R.Os for the Parliamentary Constituency. This A.R.O. was undoubtedly and admittedly R.O. for some Assembly Constituencies of Anantnag. Therefore this issue is decided against the respondent No. 1 and it is held that A.R.O. was legally competent to receive the nomination paper of the petitioner, because admittedly according to the case of both the partles the R.O. was not present at the relevant time in his office.

Out of the next group of issues which comprises issue Nos. 2 to 7 certain factual findings have to be recorded and then in the light of these findings it can be possible to record findings on the different issues in this group. In fact this group is according to me, on ultimate analysis, the storm centre in this case. According to the respondent No. 1 the R.O. was unavoidably absent from his.

Headquarters on 21st of January, 1967 on account of the law and order situation in Tral. He had authorised the A.R.O. to conduct the scrutiny of the nomination papers in his absence and until his arrival in office. He did not return to his office till about 12 noon. By the time the R.O. arrived in his office, the A.R.O. had conducted the scrutiny of the nomination paper of the petitioner and finding that no oath had been taken and subscribed to, he had rejected this nomination paper. At the time the R.O. came to his office the scrutiny of the two other nomination papers of the respondent No. 1 and 2 had not yet been effected by the A.R.O. The R.O. called back the papers from the A.R.O. and completed the scrutiny of the nomination papers of the respondents.

According to the petitioner the R.O. purposely kept himself away from his office till some minutes before 11 A.M., the time fixed for scrutiny of the nomination papers; came to his office 3 or 4 minutes to 11 A.M. The petitioner and his proposer went to him and asked him to administer the oath to the petitioner and permit him to make and subscribe the same but the R.O. directed the petitioner and his proposer to go the A.R.O. for the scrutiny of his nomination paper. This was objected to by the petitioner and his proposer. It was pointed out to the R.O. that as the R.O. was present in his office, the A.R.O. had no jurisdiction to conduct the scrutiny of the nomination papers. Respondent No. 1 entered the office of the R.O. and asked him to adjourn the scrutiny of his nomination paper for half an hour during which time he would attend to the scrutiny of the nomination paper of the petitioner before the A.R.O. The R.O. rejected the contentions both of the petitioner's proposer and the petitioner and directed them to appear before the A.R.O. for scrutiny of the nomination paper of the petitioner.

Before discussing the evidence produced by the parties in this case, I would like to remark that more evidence could have been produced by either party to prove their contentions but that has not been done. The result is that I have to confine my findings on the evidence produced by the parties what ever it is I might further incidentally remark that it is settled law that if no or insufficient evidence is given, the party who has to prove his case in order to succeed in an action, must fail. In election matters there are numerous authorities for the proposition that a return candidate should not be unseated unless the petitioner proves the case very very clearly. Reference may be made to Daobia's Election Cases 1966 page 192, Case No. 24 Rajinder Singh versus Manga Ram and ors. etc.

Now let me take the evidence. In the original petition in para 11, the petitioner stated that

"On 21st January 1967 the petitioner reached the office of the Returning Officer much before 11 O'clock and waited in the company of his proposer and other friends and colleagues of his party. As soon as the Returning Officer entered the room, the petitioner's proposer got up and sought his permission for allowing the petitioner to read and subscribe to the oath of allegiance as required by Section 84 of the Constitution of India....."

In his amended petition, the petitioner states that

"On 21st January 1967 the petitioner reached the office of the Returning Officer much before 11 O'clock and waited in the company of his proposer and other friends and colleagues of his party. As soon as the Returning Officer entered the room a little before 11 A.M. the petitioner's proposer got up and sought his permission for allowing the petitioner to read and subscribe to the oath of allegiance....."

In the original petition no time of the arrival of the R.O. was mentioned. In this amended petition his arrival was placed a little before 11 A.M. later on this "a little" was explained by the witnesses as follows. Shri P. L. Nandoo placed the arrival of the R.O. on 21st of January 1967 in his office at 10-50 A.M., Nizam-ud-Din stated that the R.O. came to his office 3 or 4 minutes to 11. Mr. Vishnavi P.W. 4 states that the R.O. came to his office a few minutes before 11 vide his statement dated 12th of September 1967. The petitioner himself put the arrival of the R.O. 9 or 10 minutes to 11 vide his statement dated 8th of September, 1967. In my opinion there has been a shift in the case of the petitioner from his original stand taken in the initial petition and I think that with a purpose. The time fixed for scrutiny was 11 O'clock and the scrutiny had to start at 11 A.M. As will appear a little later in this judgment the A.R.O. had written authority of the R.O. to conduct the scruting in case the R.O. was not present in his office. If the petitioner had left the time of the arrival of the R.O. in his office indefinite, it

would be taken that that the scruting would and had actually started at 11 A.M. before the A.R.O. Then after the scrutiny had once started there was no point in the petitioner's going to the R.O. This explains the basis for this shift. It is true that the burden of proof of the main issue in this respect i.e., whether the R.O. was unavoidably absent from his headquarters on 21st of January 1967 on account of law and order situation in Tral rests on the respondent No. 1; but as parties have led evidence, the question of burden of proof loses importance. I have mentioned the evidence of the petitioner, let me now discuss the evidence produced by the respondent No. 1 in this behalf. The respondent No. 1 produced the R.O. Hakim Chulam Rasul Station House Officer Assentiages against a second of the R.O. Hakim Chulam Rasul Station House Officer Assentiages against a second of the R.O. Hakim Chulam Rasul Station House Officer Assentiages against a second of the R.O. Hakim Chulam Rasul Station House Officer Assentiages against a second of the R.O. Hakim Chulam Rasul Station House Officer Assentiages against a second of the secon the R.O. Hakim Ghulam Rasul Station House Officer Awantipora, extracts from Roznamcha of Awantipora Police Station and the respondent himself. According to the R.O. the law and order situation in Tral had deteriorated on account of the coming into contest of Mr. Ali Mohd Naik who was a member of the Plebiscite Front for that Assembly constituency, which necessitated the R.O.'s going to Tral on 20th of January 1967 and meeting the Station House Officer and Circle Inspector. He directed the Station House Officer Awantipora Inspector. He directed the Station House Officer Awantipora to collect certain person from Tral area for 21st of January 1967. He started on 21st of January 1967 from his headquarters at Anantnag at about 9 A.M. At about 10 A.M. hemet the Station House Officer of Awantipora Police station near Sangam, a place which is situate almost midway between Awantipora and Anantnag. The distance from Anantnag to Sangam is 9 or 10 miles, Awantipora 18 miles and Bijbehara 5 miles and Tral 25 miles. The Station House Officer informed him that the people required by the District Magistrate i.e. the R.O. to be present at Awantipora were not likely to come but he required some more police force. The R.O. went to Bijbehara along with the District Superintendent of Police and there went to Bijbehara along with the District Superintendent of Police and there managed despatch of some additional police to Awantipora. He returned from Bijbehara and reached his office at about 12 noon. As soon as he came to his office he sent for the nomination papers from the A.R.O. By this time the A.R.O. had already finished the scrutiny of the petitioner's nomination paper and rejected the same. He got the nomination papers of the respondents to his file, and conducted their scrutiny himself and rejected the nomination paper of the respondent No. 2 and accepted the nomination paper of the respondent No. 1. Hakim Ghulam Rasul produced the Roznamcha in original and certain entries thereof are relevant for the disposal of this issue. On 20th of January 1967 there is an entry under item No. 19 which states that the District Magistrate Anantnag had come to the Thana and enquired about the law and order situation there. He was told that for some days past the election campaign had gained momentum. There were for some days past the election campaign had gained momentum. There were for some days past the election campaign had gained momentum. There were rival factions, who were about to commit violence. The situation was grave and there was danger of breach of peace. The District Magistrate thereupon ordered the important workers of different parties and lumberdars to be presented next morning in the Thana so that he address them. Thereafter the District Magistrate went back to Anantnag. There is another entry under No. 6 of 21st of January 1967 that the parties had been informed but they were not going to come on 21st of January 1967 but would be coming on 23rd January 1967. This is at about 9-30 A.M. Then at 10-30 there is another entry which shows that the Station House Officer went to apprise the District Magistrate and Supdt. of Police about this matter. At 12 noon of the same day there is another entry that the Station House Officer had returned after meeting the District Magistrate at Sangam. A certified copy of these entries which is marked as Ex. D.W3/1 has been gam. A certified copy of these entries which is marked as Ex. D.W3/1 has been placed on the file. Mr. Qureshi, respondent No. 1 also states that the R.O. was not present in his office at 11 O'clock on 21st of January 1967 and the nomination papers of all the three candidates had been sent to the A.R.O. by the R.O. Mr. Bhasin, the learned counsel for the petitioner, has argued that it has not been Bhasin, the learned counsel for the petitioner, has argued that it has not been proved from the evidence produced by the respondent No. 1 that the R.O. (District Magistrate) was unavoidable prevented from performing the functions of the scrutiny in terms of Section 22(2) proviso of Representation of People Act, 1951. He has quoted the dictionary meaning of the word "unavoidable" as "not to be avoided" "inevitable". He has further argued that the District Supdt. of police has not been produced, the Station House Officer of Bijbehara has not been produced, the Station House Officer on whose behalf the Roznamcha entries purport to have been made has not been produced, nor has the Roznamcha of Tral Police post been produced and there is no proof that the law and order situation had gone so bad as to make it inevitable for the District Magistrate be absent from his headquarter on 21st of January 1967. There are five Magistrates at Anantnag including the Additional District Magistrate and Assistant Commissioners. There was a Naib Tehsildar Magistrate at Tral itself. The District Magistrate should have deputed some one of these people and kept himself available for scrutiny. According to Mr. Bhasin, the District Magistrate (R.O.) purposely kept himself away but according to him the District Magistrate was very much in his office at 11 A.M. when the scrutiny had to be effected. Mr. Bhasin has further taised a legal objection that the Roznamcha evidence is inadmissible

because the scribe thereof has not been produced. I may mention here that the respondent No. 1 first summoned the Police Officer, Awantipore Police Station alongwith the Roznamcha and other record. Later on when Hakim Ghulam Rasul appeared as a witness, it transpired that the Station House Officer who was in charge of this station Awantipore on 21st of January 1967 was one Ramchand who had been transferred and was posted at Pulwama. The respondent No. 1's learned counsel wanted me to summon that Ramchand but I refused that prayer of his by means of my order dated 12th of April 1968. Therefore the blame of not producing Ramchand, Station House Officer does not lie on the respondent No. 1 who tried to get him summoned but the court refused to do so. Apart from the non-production of Ramchand, the argument of Mr. Bhasin is not legally sound because the Roznamcha of the Police Station is an official record kept under the Statutory provisions of law. Under Section 35 of the Evidence Act entries made in such records as are public and are in the shape of official books, registers, or records made by a public servant in the discharge of his official duty are relevant. No further proof of the entry except the entry itself is required, under law. About the other objections raised by Mr. Bhasin in this behalf which have been enumerated above, I have alread remarked that parties could give better evidence about so many matters raised in this case and this matter is one of them. But weighing the evidence of the parties as produced in this behalf, I think I have no reason to disbelieve the statement of the R.O. in this behalf, the entries in the Roznamcha Awantipore Police Station.

It is significant to note that this part of the case that the R.O. came to his office at 11 A.M. he was asked by the petitioner or his proposer to administer the oath and all that conversation which is alleged to have taken place between him (R.O.) and the petitioner and his proposer or the entry of respondent No. 1 into the R.O.'s room asking the R.O. to postpone the scrutiny of the respondents nomination papers, has not been at all put to the R.O., although the learned counsel for the petitioner put one page long question about such matters to the A.R.O. This omission to suggest any such question to the R.O. is significant and speaks for itself.

I hold that the R.O. was not in his office at 11 A.M. on 21st of January 1967. This conclusion of mine is further strengthened by other circumstances which will be enumerated shortly after discussing Mr. Bhasin's other arguments on this point.

Mr. Bhasin has next contended that it is almost admitted by the respondent No. 1 in his written statement that the R.O. was present in his office at 11 A.M. He particularly stressed para 11 of the written statement. He tried to confront respondent No. 1 with the first few lines of this para and argued that the respondent No. 1 had spoken on personal knowledge as would appear from the verification at the end of his written statement that the law and order situation in Tral was getting bad on 20th of January 1967 and the District Magistrate had togo personally to that part of his District. In his statement as a witness, the respondent No. 1 has stated that he had not personally gone to Tral and was not personally aware of the law and order situation there. Therefore this was a mis-statement. Secondly he stressed para 11 of the written statement and confronted the respondent No. 1 with the following quotations therefrom:

"On 21st January 1967 the day fixed for scrutiny of the nomination papers, the Returning Officer having had to deal with the deteriorated law and order situation at Tral where there had been firing and some death as a result thereof, was not sure about his being able to attend to the scrutiny personally....."

Mr. Bhasin draws following inferences from this paragraph of the written statement. First that the respondent No. 1 had made a false verification as to the law and order situation in Tral; secondly he had stated that firing had taken place in Tral before 20th January 1967 whereas it was admitted by the respondent No. 1 as well as by the R.O. and A.R.O. that no deaths had taken place in that area till 20th of January 1967 and even upto 29th of January 1967. Therefore the pretex of law and order situation having deteriorated was false and lastly that the language of para 11 almost was not an admission of the respondent No. 1 that the R.O. was in his office at 11 A.M. on 21st of January 1967. But I am afraid these contentions are not sustainable. It is proved in this case that the law and order situation in Tral was bad, tension was already there as a member of Plebiscite Front had come to contest the elections. Secondly the District Magistrate had gone to Awantipore on 20th of January 1967 and directed the Station House Officer there to collect some people of rival factions and their leaders at the station on the 21st of January 1967. The District Magistrate did go towards.

Awantipore on 21st of January 1967 also. He met the Station House Officer mid way at Sangam. Therefrom he came to Bijbehara and then came back to his office at 12 noon. Para 6 of the written statement of the respondent No. 1 also does not contradict this case of the respondent No. 1. Para 11 is very carefully drafted and it no where states in clear terms that firing had taken place before 21st of January 1967 and similarly there is no admission that the R.O. came to his office at 11 O'clock on that day. All that it states is that he had not returned till 11 A.M. when the scrutiny started before the A.R.O. After the scrutiny started the R.O. did come and it is clearly the case of the respondent No. 1 that the R.O. reached his office by about 12 noon. In his statement the respondent No. 1 has placed the time of arrival of R.O. in his office as 11-55 A.M. Mr. Bhasin has further argued that the Roznamcha entries contradict the District Magistrate. According to the District Magistrate, he left Anantnag at 9 A.M. and was at Sangam at 10 A.M. The Station House Officer according to the entry in the Roznamcha started from Awantipore at 10-30 A.M. So the whole story, according to Mr. Bhasin, of the R.O. going to Awantipore and meeting the Station House Officer at Sangam is false. I think the argument of the learned counsel for the respondent No. 1 that the District Magistrate may not have remembered the exact time of his departure from Anantnag and his arrival at Sangam, is correct. He was giving the statement after over a year. On the other hand I would say that the entry of Roznamcha supports the case of the respondent No. 1 that the District Magistrate reached his office at 12 noon; because the Station House Officer left nis office at 10-30 A.M., they must have met each other some time round about 1 A.M. After going to Bijbehara both returned to their Headquarter. The Station House Officer reached his station at 12 noon and similarly the R.O. must have reached Anantnag at 12 noon. This is so far as the arguments on this point of Mr. Bhasin are concerned.

There are other pieces of evidence which go to support this story. It is stated that when the A.R.O. received the nomination paper of the petitioner, he sent a letter to the R.O. marked as Ex. DW/1 forwarding the nomination paper of the petitioner to the R.O. and stated that he received the nomination paper at the insistence of the petitioner because he, the A.R.O., was not authorised to receive it. This letter is replied by the R.O. on that very day and is marked Ex. DW1/2 on the file. In this the R.O. writes to the A.R.O. that since he was unavoidably prevented from remaining present in his office for about an hour after 1-30 P.M. there was nothing wrong in his i.e. A.R.O.'s receiving the nomination paper of the petitioner. Further the letter states:—

"As you know the scrutiny is to take place on 21st January 1967 at 11 A.M. and I am not sure whether I shall be able to conduct myself the scrutiny of all the nomination papers for this constituency in view of some law and order situation likely to arise in Tral on this date. I shall however try to attend the office on the said date as usual. But in case I feel the urgency of leaving the office for the said place or in case I am not in a position to attend the office in time on that date, you will please conduct the scrutiny of the nomination papers in my absence only till I attend or am back to my office. This may please be treated as an authority for you to conduct the said scrutiny in my absence. I have particularly chosen you to discharge this function, as you have already received one of the nomination papers for the Constituency and also communicated in writing to the candidate regarding the holding of scrutiny in your office at 11 A.M. on 21st January 1967."

This letter clearly envisaged the whole situation and the circumstances which emerged on 21st of January 1967. The only argument to counter act this documentary evidence on behalf of the petitioner is that it is a concoction, fabrication and forgery. This is too serious an allegation and to hold it as such on the evidence on record would not be safe. There is still a stronger argument against the petitioner and in favour of the respondent No. 1 in regard to the respective stores put forward by them in this behalf. The argument of the learned counsel for the petitioner is that the R.O. was hand and glove with the respondent. He did all that is attributed to him to oblige the respondent No. 1. If that were so, I see no earthly reason why the R.O. should not have rejected the nomination paper of the petitioner himself when he did the same, according to the petitioner with the nomination paper of the respondent No. 2. If he, as suggested by the respondent No. 2 and relied upon by the petitioner, was such a dangerous person as to remove four oath forms from the file of the respondent No. 2 it was much easier for him to have rejected the nomination paper of the petitioner because admittedly they had no oath forms with them till 21st of January 1967. The

learned counsel for the petitioner could give no explanation on this point except that according to him, there was distribution of labour if rejecting the nomination papers of the rival candidates of the respondent No. 1 by the R.O. of the Respondent No. 2 and by the A.R.O. of the petitioner. This argument of the learned counsel does not go down one's threat easily. Such a conspiracy is not specifically pleaded much less proved.

According to the statement of the petitioner's witnesses Kh. Saifu-ud-Din, Sana Ullah Bhat with a number of workers of the respondent No. 2 were present vide statement of Nizam-ud-Din P.W. dated 25th of August 1967. The petitioner Mr. Saraf also admits that Messrs Noor Din, Saif-ul-Din were present at the time when the R.O. entered his office some time before 11 A.M. None of these witnesses have been produced which leads to the inference against this part of the case of the petitioner.

About the other argument whether the law and order situation at Tral was so scrious, I have already mentioned the statement of R.O.; even the A.R.O. states the same, the Roznamcha entries also indicate that the law and order situation had deteriorated in Tral. Deterioration of the law and order situation need not manifest itself in murder and arson but if there is tension between the rival groups, skirmishes and fights and there is danger to public peace that is definitely a deterioration in the law and order situation. It is also proved in this case and not denied by the petitioner or his witnesses that two murders did take place in that part of the District Anantnag, may not be before 21st of January 1967 but in that very month i.e. to say on 29th of January 1967, which shows that tension was mounting there. Secondly there can be no hard and fast rule laid down as to when a District Magistrate who is incharge of law and order situation should personally visit a particular disturbed area or direct any one of his subordinate Magistrates to go on the spot and assess the situation. It is after all a matter within the discretion, and the responsibility, of the District Magistrate as the gentleman incharge of the District to see what situation necessitates his personal presence and what should be entrusted to the other Magistrates working under him. In this case the District Magistrate may have thought it necessary to go on spot himself to see the situation. It is different that Mr. Bhasin or anyone also may not have the same view or same perspective as the District Magistrate had. After all it is the District Magistrate's responsibility and discretion to have acted to save a bad situation from getting worse.

The District Magistrate as the R.O. had taken further precautions and given written authority to the A.R.O. to conduct the scrutiny in case he would be required to go to Awantipore on that day. Therefore, in my opinion the respondent No. 1 has proved that the R.O. was unavoidably prevented from being present in his office at 11 O'clock on 21st of January 1967 when the scrutiny of the nomination papers was to be conducted. He in my opinion reached his office after the scrutiny of the nomination paper of the petitioner had been completed by the A.R.O. With this finding of fact let me try to dispose of issues of this group.

The finding on issue No. 2 is returned in favour of the respondent No. 1 Part (a) of the issue No. 3 cannot be held in favour of the petitioner. The scrutiny was performed by the A.R.O. of the nomination paper of the petitioner under proper authority of the R.O.

About part (b) of issue No. 3 Mr. Bhasin's argument is that the scrutiny conducted by the A.R.O. of the nomination paper of the petitioner is entirely without jurisdiction and on that ground alone the election of respondent No. 1 should be set aside. In support of this contention Mr. Bhasin has cited two authorities, one known as Agra District Case, Case No. 3 reported in Doabia's Election Cases, Vol. 1 (1864-1935) page 45 Peare Lal Versus Amba Prasad and another, and another known as Mainpuri (N.M.R.) Case No. XXII reported in "Reports of the Indian Election Petitions, 1927 by ELLL summond, Vol. 111 at page 178. In the Agra District case Babu Ram one of the candidates presented his nomination paper at the Bungalow of the Returning Officer Mr. Willienson, on the 3rd September, 1930 alongwith the amount of scrutiny sometime before 3 P.M. The Returning Officer however, returned his nomination paper for presentation to Mr. Hari Shankar. Babu Ram presented his nomination papers at 3-5 P.M. to Mr. Hari Shankar. On the date of scrutiny that is on the 4th September, 1930 the Returning Officer rejected the nomination paper of Babu Ram accepted those of others. It was argued that the Returning Officer not being unavoidably prevented from performing his functions, the nomination papers

could not be received by Mr. Hari Shanker. This contention was upheld in this case the Returning Officer peng present had taken the nomination paper and then returned for presentation etc. Mr. Hari Shankar, the finding that it was not proper presentation is very well justified. In the Mainpuri case (T. Gulab Singh Vs. Rai Bahadur Kharagjit Misra). The petitioner T. Gulab Singh, Rai Bahadur Kharagjit Misra and one Bhagwan Dial were candidates for election and filed their nomination papers. On 23rd October, 1926, owing to the illness of the District Magistrate, Mir Ali Raza, Senior Deputy Collector Mainpuri performed the scrutiny of nomination papers. He declared that the nomination paper of the petitioner was invalid on certain grounds and accepted the nomination paper of the two other candidates. The officer competent to receive the nomination papers were the joint Magistrate or the Senior Deputy Collector Mainpuri. It was discovered that Mir Ali Raza was not a joint Magistrate and therefore the Tribunal held that Mir Ali Raza was not capable of performing the functions of a Returning Officer which relate to the acceptance of a nomination paper or to the scrutiny of nomination. His acceptance of the nomination paper of Rai Bahadur Misra was held improper. This case also is distinguishable. Although in view of my finding on issue No. 1 this question, which is more or less academic in nature has lost its importance and does not arise for consideration in this petition yet I would like to make the following remarks:

As will be clear from my finding on other issue the nomination paper of the petitioner had to be rejected under the Constitution and the law because the petitioner had not made and subscribed to the oath upto 21st of January, 1967, i.e., the date of the scrutiny. The A.R.O. was not an officer entirely without jurisdiction. He had authority from the R.O. to conduct the scrutiny vide Ex. D. W1/2. Under section 22 Representation of People Act, 1951 an A.R.O. is competent to perform all or any of the functions of the R.O. subject to the control of the R.O. Before the amendment in this sub-section in the year 1956 by Section 10 of Act 27 of 1956, the A.R.Os. were not permitted to accept the nomination papers or to conduct the scrutiny of the nomination papers or to count the votes but after that amendment the only prohibition remains with respect to the scrutiny of the nomination papers. That can be done only when the R.O. is unavoidably prevented from performing such functions. But as I said earlier, the A.R.O. is not an officer completely devoid of authority, he has authority to do all acts even to scrutinize the nomination papers subject to certain limitations. When the nomination paper of a particular candidate suffers from an inherent defect which is apparent on the face of the nomination paper, its rejection by the R.O. or even by A.R.O. is not, in my opinion at all improper-I am fortified in this view of mine by Doabia's Election Cases VOL. I (1955Ed) page 186, case No. 34 R.B. Biswaswarlal Halwasya Versus Babup Rang Lal Jajodia in which the Election Tribunal has held while dealing with issue No. 3 as follows:-

"There was no returning officer on the 8th October, 1923, in this constituency. Under Schedule 1 of the Regulations, however, Jatindranath Benerjee was empowered to do all the duties of the Returning Officer. It is pointed out that under the control of the Returning Officer and that he could not receive nomination papers and hold a scrutiny unless regulation 3 he could only act under the Returning Officer was 'unavoidably prevented' from performing these functions. The words in an English case were 'incapable of acting' and Lord Campbell thought

that they might cover a case of this kind. (Queen Vs. Owens, Vol. 121 English Reports, P. 36). The Personal Assistant had not usurped the office. He took up his duties when the Returning Officer became incapable of acting". Want of title in the person acting as Returning Officer will not invitiate an election which is otherwise valid". Parker, P. 61. "Elections made under usurping Returning Officers when there has been the form of an election have been uniformly supported" (Heyu Bo. 62). Turning to the Bengal Electoral Rules it would appear that non-compliance with the rules and regulations is not enough. The petitioner has to show that the result of the election has been materially affected by such non-compliance. If the petitioner's nomination was bad, his name goes out on that ground. If his nomination was good he succeeds on that ground and not by reason of the fact that the Personal Assistant acted as the Returning Officer." Issue No. 4. As I have held that the R.O. was not in

his office at 11 O'clock on 21st January 1967, the question of the petitioner or his proposer seeking permission for the petitioner to make and subscribe to the oath does not at all arise. This issue is decided against the petitioner.

Same applies to issue No. 5 and that also is decided against the petitioner.

In view of this finding, issue No. 6 does not arise in this case. Issue No. 7 also does not arise and both these issues are decided against the petitioner.

I will now take up the second group of issues which comprise issues 8, 9, and 10. I have dealt with the part played by the R.O. I based my midings on the evidence on record produced by the parties. Now I take up the role played in this matter by the A.R.O. In my opinion the accusations levelled against this officer by the petitioner are justified. From an over all impression of the evidence in this case led by the parties, I am convinced that the A.R.O. at least tried to put off the petitioner from contesting the election. The R.O. was absort from his Headquarters. Whether that was intentional absence or necessituted by circumstances is not relevant for the disposal of this petition in view of the finding that I am returning. The A.R.O. was approached by the petitioner and his proposer. He avoided receiving the nomination paper. The learned counsel for the respondent No. 1 however argued that it was admitted by Shri P. L. Handoo P.W. 1 and by the petitioner that the A.R.O. had told them that he wou'd receive the nomination paper if the R.O. did not turn up by 2-50 p.m. But even that appears to me to be a ruse. He has been compelled on the insistence of the proposer of the petitioner and the petitioner to receive the nomination paper much against his wish. He tried to dodge the petitioner and his proposer till the time would run, this day i.e. 20th January 1967 being the last date for filing the nomination papers. I believe the story of the petitioner and his proposer that it was due to the intervention of the Deputy Chief Electoral Officer who was contacted on telephone that the nomination paper of the petitioner was received by the A.R.O. Mr. P. L. Handoo P.W. 1 states that he contacted the Deputy Chief Electoral Officer and the latter assured him on telephone that the A.R.O. would receive the nomination papers of the petitioner. The proposer was asked to go out of the room when the A.R.O. received the telephonic call; after the telephonic call the A.R.O. received the nomination paper of the petitioner. When he was after all compelled to receive the nomination paper of the petitioner. When he was after an competed to receive the homeation paper, he still did not be have straight. He allixed 21-1-1967, as the date of receipt whereas it was 20th January 1967. He was made to correct it. He designated himself as the Assistant Commissioner Ananthag under his signature. He was compelled to add A.R.O. Then the endorsement on the back of the nomination paper that he was not an officer empowered to receive the nomination paper and it was only on the insistance of the candidate that he received the nomination paper shows which way his mind waked. This gentleman had to admit that under a properly issued notification all the R.Os. of Assembly Constituencies would be ipso facto A.R.Os. for the Parijamentary He knew this and yet he made the endorsement and hesitated constituency. to accept the nomination paper. The R.O. was not present. Under section 22 of the Representation of People Act, 1951 he could discharge and perform all the functions of the R.O. except the scrutiny. The petitioner's proposer at that very time conveyed to the Chief Election Commissioner what had transpired on the 20th of January 1967. This telegram is Ex. P.W. 1/2. It confirms the statement of the petitioner and his proposer. Not only this the A.R.O. the statement of the petitioner and his proposer. Not only this the A.R.O. after having received the letter Ex. DW1/2 from the R.O. sent a telegram Ex. DW 1/6 to the petitioner asking him to present nimself for scrutiny at 11 O'clock on 21st of January 1967. He did not send any such telegram to the other two candidates. It is admitted by this gentleman A.R.O. that he had all the nomination papers with him on the evening of 20th January 1967 sent by the R.O. to him alongwith the letter Ex. DW 1/2. Yet why he sent the telegram only to the petitioner and not to the other two candidates is not at all explained by him. The reason given by him that the two other candidates had already been informed about the scrutiny is meaningless because the receipt given to the petitioner which is Lx. P.W. 1/3 also clearly indicated that the scrutiny of his nomination paper would be held at 11 a.m. on 21st of the scrutiny of his nomination paper would be held at 11 a.m. on 21st of ranuary 1967. This receipt was given by this very A.R.O. Therefore if on receipt of Ex. DW 1/2 any information was necessary to be conveyed by this gentleman it was to the other candidates and not to the petitioner who had

already been informed by this very person about the scrutiny. Then on the day of scrutiny if the R.O. was not present according to him, he should have started with the scrutiny of the respondent No. 2's nomination paper because he had presented his nomination papers first of all on 19th January 1967 and then the respondent No. 1 who also presented his nomination papers on 19th January 1967. The petitioner's nomination paper was received on 20th January 1967 and as such it should have been No. 3. He singled out the petitioner's nomination paper for scrutiny. Why that is not understandable and no satisfactory explanation has been given by the A.R.O. His only explanation is as this was the only nomination paper received by him, he started the scrutiny of the same first which is neither legal nor morally justified. I have no hesitation in further believing the petitioner's evidence supported by his three witnesses that the petitioner and his proposer offered more than once (1) at the time of appearing before the A.R.O. (2) at the time when the question of jurisdiction was being argued, and (3) later when the A.R.O. held that he had jurisdiction tion, to make and subscribe to the oath and sought permission of the A.R.O. to permit the petitioner to do so. The A.R.O. has all along lied and I am sorry to remark that even the respondent No. 1 has not spoken the truth on this point. As would presently appear, the petitioner was under the belief, so were others, that he could make and subscribe to the oath at any time upto the time of scrutiny. Therefore, he pressed the A.R.O. to allow him to make and subscribe to the oath on 21st of January, 1967, which the A.R.O. did not permit. The petitioner was an experienced politician, had been a member of the Legislature of the State, of the Lok Sabha, as well as a Minister in the State. He knew that by the amendment of 1956 making and subscribing to the oath by him was obligatory to entitle him to be returned as an M.P. Therefore the story set up by the A.R.O. or by the respondent No. 1 to the effect that the petitioner never offered to make and subscribe to the oath does not stand to reason.

I believe this part of the story of the petitioner cent percent though the petitioner and his witnesses have tried to exaggerate and somewhat distort facts and make the petitioner's case more forceful by introducing the presence of the R.O. in his office at 11 A.M. or before 11 O'clock on 21st January, 1967. I have given reasons, which appear to me cogent, for holding that part of the story of the petitioner as incorrect. Therefore my finding on this group of issues will be as follows:—

The A.R.O. has refused to permit the petitioner to make and subscribe to the oath on 21st January, 1967, Issue No. 8 is found is favour of the petitioner.

I must now take up issues 9 and 10 together. So far as the question of fact is concerned, I have held that the A.R.O. rejected the request of the petitioner and his proposer to allow the petitioner to make and subscribe to the oath more than once before the scrutiny. But the question still remains whether the nomination paper of the petitioner was wrongly rejected which is the subject matter of issue No. 10. It appears that the petitioner and most other people had an idea that oath could be made and subscribed to even upto the time of scrutiny. For this there seems to be sufficient justification as will presently appear. First let us see on what date the petitioner sought to make and subscribe to the oath. Nizam-ud-Din P.W. states that no attempt was made by the petitioner or by his proposer to make and subscribe to the oath before the A.R.O. on 20th January, 1967, because the A.R.O. had refused to receive the nomination paper vide his statement dated 8th September, 1967. Mr. Saraf, the petitioner in his statement dated 11th September, 1967, states "since it was open to me to make and subscribe to the oath even immediately before the scrutiny started and secondly the attitude of A.R.O. was so hostile towards me that prevented me from making an attempt from taking an oath. I did not make any attempt to take the oath before the authorised officer at Srinagar because I was otherwise busy and I knew the procedure" Similarly Mr. Vaishnavi states in his statement dated 11th September, 1967, while this argument was on, I read out the relevant section to the A.R.O. to the effect that as to the question of jurisdiction was being the control of the con discussed and the scrutiny had not started yet, the petitioner was within his right to seek permission to take and subscribe to the oath. "So it is common ground or rather proved from the evidence of the petitioner himself that he offered to make and subscribe to the oath on the morning of 21st January 1967. I said earlier that there seems to be some justification for this belief in the

mind of the petitioner and his well-wishers and even other people. A publication entitled "General Elections 1967", Hand-book for Returning Officers, 1966, at page 19 contains;—

"The oath or affirmation should be made and subscribed before the R.O. takes up the scrutiny of nomination papers at the election on the date fixed by the Election Commission for scrutiny of nomination papers at that election. The candidates however, would be well advised to do it at the time of presenting their nomination papers to you."

Then in para 6 on the same page it further lays down:-

"... If the oath or affirmation is not made and subscribed before the scrutiny of a candidate's nomination papers, the candidate will be held by you as not qualified to stand for the election. You will reject his nomination paper at the time of scrutiny. The onus of proving to your satisfaction that the candidate has made or subscribed the oath or affirmation prior to the time of scrutiny of the nomination paper is on the candidate himself."

Reading of these paras would indicate that the Election Commission contemplated that the oath could be made and subscribed to even immediately before the scrutiny. This belief misled the petitioner in not making and subscribing to the oath before the date of scrutiny. The point to be determined now is when should an oath be made and subscribed to or in other words can it be made on the date of scrutiny or should it be done before the scrutiny. The learned counsel for the respondent No. 1 relied upon the latest Supreme Court authority Pashupati Nath Singh Versus Harihar Prasad Singh Civil appeal No. 1692 of 1967 decided by the Supreme Court on 22nd of January, 1968. This point came up for consideration in that case and their Lordships remarked as under:—

"The short question which arises in this appeal is whether it is necessary for a candidate to make and subscribe the requisite oath or affirmation as enjoined by clause (a) of Art. 173 of the Constitution before the date fixed for scrutiny of nomination paper. In other words is a candidate entitled to make and subscribe the requisite oath when objection is taken before the Returning Officer or must he have made and subscribed the requisite oath or affirmation before the scrutiny of nomination paper commenced. The answer to this question mainly depends on the interpretation of S. 36(2) of the Act."

Then their Lordships after reproducing some provisions of the Representation of People Act, 1951, held:—

"It will be noticed that u/s 36(2) of the Act, one of the grounds on which a nomination paper can be rejected is that on the date fixed for the scrutny of nominations, the candidate is not qualified for being chosen to fill the seat under Art. 173 of the Constitution."

Further on their Lordships held that:---

"The words "having been nominated" in this form clearly show that the oath or affirmation cannot be taken or made by a candidate before he has been nominated as a candidate."

Then repelling a further contention on behalf of the learned counsel for the petitioner Mr. Gokhale their Lordships held that:—

"It seems to us that the expression "the date fixed for scrutiny" in Section 36(2)(a) means "on the whole of the day on which the scrutiny of nomination has to take place. "In other words the qualification must exist from the carliest moment of the date of scrutiny...."

And then after quoting some English authorities their Lordships have finally held:—

"In this connection it must also be borne in mind that law disregards, as far as possible fractions of the day. It would lead to a great confusion if it were held that a candidate would be entitled to qualify for being chosen to fill a seat till the very end of the date fixed for scrutiny of nominations. If the learned counsel for the petitioner is

right, the candidate could ask the Returning Officer to wait till 11-55 P.M. on the date fixed for the scrutiny to enable him to take the oath."

Further on their Lordships observed:-

"This in our view does not mean that the oath or affirmation can be taken and subscribed on the date fixed for scrutiny. It seems to us that the nomination paper does not provide for the statement about the oath because the oath or affirmation has to be taken after a candidate has been nominated."

In this authority their Lordships have clearly laid down that oath should be made and subscribed to before the date of the scrutiny. They have further held that the petitioner must be qualified i.e., he must have subscribed to the oath from the very earliest moment of the day of scrutiny. Mr. Bhasin tried to distinguish this authority on the ground that the facts of the case before their Lordships of the Supreme Court were different. In that case even upto the time of scrutiny a candidate had not made or subscribed to the oath. When at the time of scrutiny an objection was raised, the candidate had not made or subscribed to the oath, he offered to do so but that request of his was rejected. Mr. Bhasin says that in this case the scrutiny had not started. Therefore the petitioner was in law authorised to make and subscribe to the oath before the scrutiny started. In fact he tried his best to do the same before the A.R.O. many times right from the time he appeared before him at 11 A.M. He further re'ied on a Mysore authority reported as AIR 1968 Mysore 18 which deals with this point. But I am afraid in view of the clear pronouncement of the law by their Lordships of the Supreme Court, portions of which have been quoted in extenso above. I cannot accept the interpretation sought to be put either by Mr. Bhasin or by the Mysore authority however eloquent and cogent the reasoning of the Mysore High Court authority might be in the words of Mr. Bhasin. Mr. Bhasin tried to address a further argument that under Article 324, the supervision, direction and control of the preparation of the electoral rolls for, and the conduct of, all election to Parliament and to the Legislature of every State vested in the Commission i.e. Election Commission and according to him the Election Commission had Issued the instructions under this Article in the form of the Hand-book: the relevant passages from page 19 of the said book have been quoted above. Therefore, according to Mr. Bhasin the law as it existed on the 21st of January 1967 was that oath could be taken and subscribed to at any time before the scrutiny. This argument is ingenious but is not legally sound. The law was not different on 21st January 1967 from what it now is after January 22, 1968 when the Supreme Court decided the case Pashupati Nath Singh Vs. Harthar Prasad Singh. Their Lordships of the Supreme Court only interpreted the law as it stood then and as it stands now, there was no amendment in the law. Under Article 141 of the Constitution of India, the law laid down by the Supreme Court shall be the law of the land and shall be binding on all of us. Further under Article 327 of the Constitution of India the Parliament is empowered to make provisions with respect to elections to legislature "Subject to the provisions of this Constitution." Parliament may from time to time by law make provisions with respect to all matters relating to or in connection with elections to either House of Parliament or to the House of or either House of Legislature of a State. "The representation of People Act has been enacted under this provision of the Content stitution by the Parliament and therefore that would be the law governing the subject. Any other interpretation put upon the law by the Election Commission or for the matter of that by any other authority against the interpretation his nomination paper was rightly rejected by the A.R.O. This was an inherent put or the law by the Supreme Court is of no consequence. Moreover this Handback is only as a cort of administrative guide consequence. book is only as a sort of administrative guide and has not the force of any law. If on the authority of this Supreme Court judgment, the petitioner had not made and subscribed to the oath till 21st of January 1967, the date of scrutiny, his nomination paper was rejected: it was rightly rejected because he had not fulfilled the requirement of law as laid down in Article 84(a) of the Constitution of India. Therefore issue No. 10 is decided against the petitioner and it is held that as the petitioner had failed to make and subscribe to the oath before the day of scrutiny, his nomination paper was rightly rejected by the A.R.O. This was an inherent defect in his nomination paper and the A.R.O's action in rejecting his nomination paper was legally right though in arriving at this conclusion recourse has been taken to untruths and falsehood.

An alternative argument has been advanced on behalf of the respondent No. 1 for rejection of the nomination paper of the petitioner. It has been argued that

the refusal by the R.O. or the A.R.O. would be a non-compliance with the provisions of the Constitution or the Representation of People Act or Rules and orders made thereunder and therefore unless it is proved by the petitioner that the result of the election in so far as the returned candidate is concerned, was materially affected, the election of the respondent No. 1 cannot be set aside. In my opinion this argument deserves to be mentioned simply to be rejected. The learned counsel for the respondent No. 1 entirely ignores the provisions of Section 100(1)(c) of the Representation of People Act, which lays down that an election should be declared void on the simple ground that any nomination paper has been improperly rejected. It the nomination paper of the petitioner on facts had been held to be improperly rejected that by itself would be sufficient to declare the election of the respondent No. 1 as void.

Issue No. 11.—This issue was not at all pressed by the learned counsel for the petitioner. The respondent No. 1 has been properly nominated. He is a registered voter in the Srinagar Parliamentary Constituency, has presented a copy of the electoral roll of that constituency alongwith his nomination paper, has paid the requisite election deposit of Rs. 500/- before filling his nomination paper, has made and subscribed to the oath and got a certified copy from the R.O. to that effect. No objection was taken by anybody to his nomination paper. Therefore his nomination paper has been rightly accepted and therefore this issue is decided against the petitioner.

Then we come to another contention issue i.e. rejection of the nomination paper of the respondent No. 2. In para 20 of the Petition, the petitioner has made a simple statement that respondent No. 2 was also a duly nominated candidate and his nomination paper was also improperly rejected by the R.O. etc. etc. When the respondent No. 2 filed his written statement on 26th May, 1967, he narrated certain facts in reply to this para in his written statement. The case of the respondent No. 2 briefly put is that on 19th January 1967 he presented four nemination forms of his which are P.W. 4/6, 4/7, 4/8 and 4/9 alongwith these he presented four oath forms. On the day of scrutiny the oath forms were missing from his nomination forms. After some controversy with the R.O., his nomination paper was rejected because no oath form was found attached to them This was the only ground of rejection conveyed to this respondent at that time Later on the R.O. had fraudulently and falsely added another ground that the respondent No. 2 had failed to present the Electoral Roll of the constituency wherein he was registered as a voter for rejecting his nomination paper. In support of this case of the respondent No. 2, the only evidence on record is the statement of the respondent No. 2. It is admitted by him that Ghulam Mohammad Ganai, a candidate for the Assembly Constituency of Devsar was also with him when he presented the nomination papers. That Ghulam Mohammad Ganai has not been produced as against this testimony of the respondent No. 2 there is the statement of the R.O. The learned counsel for the respondent No. 1 has argued that there is a presumption under section 114, illustration (E) of the Evidence Act that all official acts will be presumed to have been regularly performed. There is a statutory presumption in favour of the version of the R.O. that there was no oath form present at the time of the scrutiny of the nomination paper of the respondent No. 2. The presumption in law shall be that no such oath forms were presented. This is further strengthened by the positive statement of the R.O. On the other hand it is argued that respondent No. 2 is an Advocate of the Supreme Court and his statement should be believed as against the R.O. whose conduct has been most shady and doubtful in most of the election matters conducted in his District. It has been argued that this gentleman, Mr. A. K. Malik has managed to see the ruling party candidates returned uncontested in most of the seats in his District, and therefore his statement should not be believed. I do not mean to express any opinion on these arguments because the conduct of this officer will be discussed in the election petitions which are admittedly panding in this very Court before other Heaville Ludges. My comments. conduct of this officer will be discussed in the election pentions which are admittedly pending in this very Court before other Hon'ble Judges. My comments shall be strictly confined to the creditibility or otherwise of this R.O. to the facts of this case. Each case will have to be decided on its own merits and circumstances. Therefore I shall not very much draw upon the legel presumption so much relied upon by learned counsel for the respondent No. 1 but shall constitute the relief upon by learned representations. sider the other pieces of evidence produced by either side in this case. As I stated earlier that Chulam Mohammad Ganai who could be expected to throw light on this contention of the respondent No. 2 has not been produced. Further the learned counsel for the petition has put in the cross-examination of the R.O. the two certificates issued by this R.O. one to Ghulam Mohammad Ganai and the other to Shri Monoharnath Kaul which are marked as Ex. D. W. 2/18, and 2/19. If Ghulam Mohammad Ganai could secure a certificate from the RO. about his having made and subscribed to the oath, there is apparently no reason

why the respondent No. 2 should not have secured the same. The respondent No. 2 states that he was the legel adviser of Ghulam Mohammad Ganai. The respondent No. 2 should have insisted on this certificate being issued to him. Oath forms were not removed from Ghulam Mohammad Ganai's nomination papers; according to respondent No. 2 they were removed from his nomination papers although all the nomination papers of the respondent No. 2 and Ghulam Mohammad Ganai were presented on the same day. Respondent No. 1 has also been given the certificate of his having made and subscribed to the oath by this R.O. which has been produced in this case is Ex. DW 4/1.

The learned counsel for the respondent No. 1 has cross-examined the respondent No. 2 at length about his political convictions and activities. In cross-examination Mr. Vaishnavi has stated that he was a member of the political conference and its aim was not to make Kashmir acceds to Pakistan. The Policy statement was made in June 1953. Kashmiries should be given the right to decide the question of accession by the exercise of their free will as was contained in the resolution of the Security Council and other commitments made by the two States of India and Pakistan and respondent No. 1 was also an active member of this conference." The political conference still considers the question of accession undecided even upto the present movement because Government of India has been carrying on negotiations with the Government of Pakistan. The Constitution of India does not recognise the accession of Kashmir with India as final because of Art. 370 and some other sections. So far as my personal view is concerned, legally speaking. Kashmir is a part of India, but as a political issue it is very much on the nerves of Government of India, and Pakistan and the people of Kashmir. I resigned from Political Conference in June or July 1964. The object of the political conference was that the will of the people should be ascertained". "The objective of the political conference was always to allow the people of Kashmir to express their views"... "I was detained in Jali for about 5½ years with intermediate periods on parol". In reply to another question Mr. Vaishnave states "on of my objectives after being elected was to demand the release of Sheikh Mohammad Abdullah and other prisoners which was part of my demand for grant of civil liberties and secondly there should be a round table conference of Government of India, Pakistan and people of Kashmir to have the issue of accession settled". Vide statement of the respondent No. 2 dated 13th September, 1967, it is suggested that the respondent No. 2 did not believe in the accession of Kashmir to India and therefore he did not purposely make and subscribe to the oath. I need not go into all these questions. I am deciding this election petition on the evidence before me. Mr. Rughnath Valshnavi's charges against the R.O. are very grave. They constitute a corrupt practice also under section 123(7) of the Representation of People Act. These allegations disclose the offence of a very serious nature of the Representation of People Act. It is settled law that the standard of proof for establishing a corrupt practice should be that of a criminal case. Reference be made to Doabia's Election Cases 1964 page 218 D. Murlidhar Reddy Vs. Pagafulla Reddy and another Special Appeal No. 34 of 1963 decided Ready vs. Fagatula Ready and another Special Appeal No. 34 of 1963 decided by the Andhra Pradesh High Court. Another authority Doabia's Election Cases 1961, page 14 V. B. Raju Vs. Ramchandra Rao and Ors. Special Appeal No. 8 of 1958 decided by the Andhra Pradesh High Court. Another judgment of the Kerala High Court Gopala Kurup Vs. Samuel Arulappan Paul and others, election petition No. 1 of 1960, reported on Doabia's Election cases, 1961 page 185. A Division Bench of that court held that the:-

"Burden of proving the alleged corrupt practices is on the election petitioner and the allegations should be proved beyond any reasonable doubt. If any reasonable doubt arises after the evidence has been scrutinized the benefit thereof should go to the person charged."

See also Doabia's Election Cases, 1962 page 181, Election case No. 2/3 of 1961, Manda Kiseaore Rath Vs. Himanshu Sekhara Pandhi.

Keeping the pronouncements on this subject by the various Courts in view, I think without straight-away disbelieving Mr. Vaishnavi or accepting the testimony of the R.O. Mr. A. D. Malik it will not be safe and proper for me to hold the story related by Mr. Vaishnavi as proved. In fact this story is not proved. It is important to note in this behalf that the petitioner, who must have known about these facts which according to Mr. Vaishnavi were very much advertised by him, did not make any specific allegation about this matter in his petition. He contented himself by making a brief reference to the improper rejection of the nomination paper of the respondent No. 2. A legal argument has been raised on behalf of the

respondent No. 1 that as these allegations of Mr. Vaishnavi are the allegations of a serious corrupt practices, they should have been specifically mentioned in the election potition. They should not have been enquired into because Mr. Valshnavi in his written statement has made these allegations after the time for filing an election petition had expired. Mr Vaishnavi, as already stated, filed the written statement on 26th of May 1967. The result of the election was declared on 21st of January, 1967. The limitation for filing the election petition is 45 days from the date the election of a returned candidate is announced under section 81 of the Representation of the People Act. This written statement was filed much after the time fixed for filing an election petition. In view of my finding on the factual side, I need not go into this legal argument at all. The other contentions of Mr. Vaishnavi is that the R.O. rejected his nomination paper only on the ground of absence of oath forms, but later fraudulently and falsely entered another ground of non-presentation of the electoral roll of the Constituency where this respondent was entered as a voter at the time of scrutiny in his order, copy whereof was supplied to this respondent. In this behalf an attempt was made by the learned counsel for the petitioner to cross-examine the respondent No. 1 by confronting him with a newspaper cutting of Khidmat, the official organ of the Congress party, dated 22nd January 1967. In this paper Mr. Qureshi respondent No. 1 is alleged to have addressed a Press Conference. According to the learned counsel for the petitioner the address that he made to the newspaper people is reproduced within inverted-commas and the learned counsel for the petitioner tried to suggest that this ground of rejection namely the non-presentation of the relevant electoral roll by the respondent No. 2 at the time of scrutlny does not find place in that statement. Mr. Qureshi has not admitted the correctness of this press statement. There is no proof adduced by either the petitioner or the respondent No. 2 that this statement was actually made by the respondent No. 1. Therefore nothing can be made out of this statement. Similarly respondent No. 1 tried to put in a statement alleged to have been made by the petitioner alongwith Messrs Trilochan Dutt and G. L. Dogra on 2nd February 1964, in Jammu in the statement of the respondent No. 1 a copy whereof has been placed on the file and is Ex. DW 4/2. In my opinion neither the alleged press conference of respondent No. 1 nor this alleged statement of the petitioner, can be used in evidence, the first as not having been proved, the second has neither been proved nor put to the petitioner. Therefore I ignore both these statements. However I need not go into this allegation because in my opinion this is also as serious a charge as the first namely removal of oath forms and is criminal in nature. The same remarks wil apply mutatis mutandis to this part of the case also.

With these findings, I have no option but to hold that the nomination paper of the respondent No. 2 was not improperly rejected. Therefore this issue is decided against the petitioner. I would however like to make a suggestion to obviate such disputes in future. The nomination paper should at a proper place have a column for the enclosures attached with the same. If the authorities consider this suggestion worth while, the necessary addition may be made in the nomination forms.

Issue No. 13.—In view of my findings on issue No. 10 this issue does not require any specific finding.

The result is that this election petition fails and is dismissed.

Before concluding I have to place on record my highest appreciation, for whatever it is worth, for the great ability, dexterity, with which this case was argued by Mr. Bhasin, the learned counsel for the petitioner and the hard labour he has put in

The last point to be considered is about the costs. In my opinion the petitioner had a very good case but for the exposition of the law in the latest authority of the Supreme Court referred to above, in my opinion, he has only exaggerated the part attributed to the R.O. on 21st January 1967. Therefore in my opinion he should be made liable for nominal costs. I therefore direct that while I dismiss this petition of the petitioner, he will pay only the costs incurred by the respondent No. 1 on his witnesses. The rest of the costs will be borne by the parties in view of the peculiar features of the case.

The substance of this order shall be intimated to the Election Commission and the Speaker of the Lok Sabha immediately and an authenticated copy of this judgment shall be sent as soon as possible to the Election Commission as per terms of Section 103 of the Representation of the People Act.

(Sd.) J. N. BHAT,

SRINAGAR: June 13, 1968.

New Delhi, the 13th September 1968

S.O. 3624.—In pursuance of section 106 of the Representation of the People Act. 1951, the Election Commission hereby publishes the Order, pronounced on the 29th July, 1968 by the High Court of Judicature at Patna in Election Petition No. 25 of 1967.

ELECTION PETITION NO. 25 OF 1967

In the matter of application under sections 80 and 81 of the Representation of the People Act 1951.

Priya Gupta -- Petitioner.

Vs.

Abrar Ahmad and others.-Respondents.

For the petitioner.—M/s. Sanat Kumar Chattopadhya, Mahendra Prasad Pandey and D. N. Pandey.

For the respondent.—M/s. Kanhaiya Prasad Verma and Kamla Kant Prasad Present:

The Hon'ble Mr. Justice M. P. Verma-

- M. P. Verma, J.—This election petition has been filed under the provisions of sections 80 and 81 of the Representation of the People Act 1951 (hereinafter referred to as the Act) by Shri Priya Gupta, a trade union worker against Shri Abrar Ahmad and 4 others with a prayer that the election of Shri Sita Ram Keshri, respondent No. 4, from Katihar Parliamentary constituency to the Lok Sabha be declared as void and that the petitioner had been duly elected to the Lok Sabha from that constituency.
- 2. The following facts as alleged by the petitioner may be briefly stated. The petitioner had been duly elected in the third general election of 1962 and was functioning as a Member of the Lok Sabha. In 1967, the fourth general election was held in the month of February. The President of Union called upon the various parliamentary constituencies including the Katihar Parliamentary constituency to elect member in accordance with the provisions of the Act and of the rules and orders made thereunder. This notification was published in the extraordinary Gazette of India, dated, the 13th January, 1967. Simultaneously, the Governor of Bihar also issued similar notification for the election in the various assembly constituencies in the State. The Katihar Parliamentary constituency included the assembly constituencies of Katihar, Manihari, Bareri, Korha in the district of Purnea and Gopalpur and Bihpur in the district of Bhagalpur. The petitioner and the respondent filed nomination papers and after the scrutiny of the papers all of them were declared to be valid. The petitioner and 5 respondents were thus left to contest the election because none of them withdrew within the period fixed for withdrawal of candidature.
- 3. The petitioner was a candidate sponsored by the Praja Socialist Party (P.S.P.) and he was allotted the symbol of hut. Respondent No. 4 was a candidate sponsored by the Indian National Congress and was accordingly allotted the symbol of two bullocks with yoke on. Respondent No. 1 was a candidate from the Communist Party of India, Respondent No. 2 from Jan Kranti Dal, Respondent No. 3 from Akhil Bharatiya Jan Sangh and Respondent No. 5 from Swatantra Party. The polling in Gopalpur and Bihpur assembly constituencies was held on 15th February, 1967 and that in Katihar, Manihari, Bareri and Korha was held on 19th February, 1967. E'cctions were held simultaneously both for the assembly and parliamentary constituencies. After the poll, counting of votes took place on 22nd February, 1967, for Manihari and Gopalpur, on 23rd February, 1967, for Bareri and Bihpur and on 24th February, 1967, for Katihar and Korha constituencies. Within the counting pandal which was located in the compound of Subdivisional Officer, Katihar, 15 table were placed for each of the assembly and parliamentary constituencies in addition to one table meant for the Returning Officer of each assembly and parliamentary constituency. The counting of votes in respect of Gopalpur and Bihpur constituencies was held in the collectorate premises, Bhagalpur.
- 4. According to the petitioner, the returned candidate i.e. respondent No. 4 and his agents and supporters had indulged in a number of corrupt practices. Respondent No. 4 had taken the assistance of Railway men who were member of N.F.R. Employees' Union throughout the Katihar Parliamentary constituency to

obtain and procure votes for himseld. These Railway men were Government employee and they have been prohibiled by the Act from taking part in the election on behalf of one or the other candidate except that they could simply exercise their franchise. The general body of N.F.R. Employees' Union held a meeting at Lumding (Assam) on 29th, 30th and 31s. December, 1966 and passed resolution appealing to all the Railway employees of N.F. Railways to cast their votes for the Indian National Congress. In view of this resolution, posters and leaflets were printed in the Katihar Printing Press in 1967 in contravention of the provisions of section 127A of the Act by the employees of the N.F. Railway Union. Such posters were pasted on the walls of Katihar railway station and other railway premises by the members of the N.F. Railway Employees' Union. A copy of the resolution has been filed along with the petition which is Annexure 'A'. Respondent No. 4 approached a number of Railway employees and their relations to offer them money to procure votes in Katihar and other areas, the at least there were three concrete examples. Herbal Maharaja, Yadunandan Thakur and Asarfi Thakur were offered bribe by respondent No. 4 and also by his agents to vote for and procure votes for respondent No. 4.

- 5. On 15th February, 1967, was an attempt to impersonate several voters in the polling booth at Milki Lower Primary School of Bihpur by the agents of Respondent No. 4 and when this was detected by the supporters of the other candidates, there was violent attacks and counter-attacks. Ultimately, the matter was compromised through the intervention by Mahanth Karshal Mishra, and it was decided that all the voters would vote in favour of the Congress candidate i.e. Respondent No. 4 for the Parliamentary Constituency and they would similarly vote for the Jan Sangh candidate for the assembly constituency.
- 6. The official car was used extensively at the election. A car with Ashok chakra was used to carry voters to Bareri school booth. A large number of voters were carried in the car of Respondent No. 4 and hired rikshaws by the agents of Respondent No. 4 to the polling booths, particularly, to booth number 40 from the refugee colony at Katihar. One of those rikshae pullers was Jagdish Mahto.
- 7. As regards the counting of votes, the allegations made on behalf of the petitioner are that the counting of votes of Katihar constituency could not be finished in the morning sitting and so naturally it was carried over for several hours and meanwhile the counting of votes for Korha constituency was taken up. The result was that the polling agents and many other persons entered the counting pandal, when the counting started for Korha constituency. This created a great confusion and disturbance. The officers on duty used their microphone several times appealing to the crowd to disperse but to no effect. It was difficult for the counting agents of the petitioner to scrutinise the counting properly because of this great rush at various tables. Several types of irregularities were noticed in the counting.
 - (i) Bunches of ballot papers were put in the apartment and pigeon holes of Respondent No. 4 without proper counting and without affording an opportunity to the counting agents of the petitioner to examine them.
 - (ii) Some ballot papers on which stamps were in such a manner that although they covered the space for the petitioner, they overstepped slightly on the shaded portion either above or below were rejected. But such ballot papers were accepted in the case of returned candidate.
 - (iii) Where in the course of folding the ballot papers some impression of the stamps which was clearly in the space provided for the petitioner, fell on other space of the ballot paper, the same were rejected.
 - (iv) Where stamps were put across two spaces one of which was of Respondent No. 4, the same was declared in his favour and was not invalidated.
 - (v) A large number of ballot papers with the marks against 'hut' indicating that the votes were cast for the petitioner were tied up in bundles with the votes polled by Respondent No. 4. On many occasions they were challenged and upon re-examination the irregularities were found out and some of them were related to the petitioner.
 - (vi) On 24th February 1967 at 9-30 P.M. all the Assistant Returning Officers left the counting pandal while the counting was still going on. That also resulted in creating confusion. At about 8 or 8-30 P.M. Resppondent No. 4 entered into the pandal with several other persons and the result was that further confusion and rowdyism was created at the counting tables.

8. In view of the above and other irregul. Ities, at least one thousand valid votes of the petitioner have been wrongly and improperly rejected. If those votes were counted for the petitioner he would have secured votes at least 58803, and would have been declared elected. When the verbal protest by the counting agents to the Assistant Returning Officer failed, the petitioner had to file a written protest and make petition for recounting of votes before the result of Korha constituency was announced. But that prayer was rejected by the Assistant Returning Officer. It is further alleged that in view of the illegal rejection of votes in favour of the petitioner and invalid acceptance of votes in favour of Respondent No. 4, the result of the election was materially affected. If there had been proper counting of votes, the votes cast in favour of the petitioner would have increased by about one thousand and those cast in favour of respondent and those cast in favour of Respondent No. 4 would have decreased by 500 and the result would have been that the petitioner would have secured at least 1500 votes more than those counted in favour of Respondent No. 4. The result of the election was declared as follows:

Respondent No.	4	4 *	* 1			58,776
Petitioner						57,803
Respondent No.	1				• •	53,464
Respondent No. :	2			• 1		22,086
Respondent No. :	3					53,882
Respondent No. 5	5			. ,	- •	14,802

9. The petitioner has, therefore, made a prayer that it should be held by the Court that—(a) the result of the election in so far as it concerns Respondent No. 4 has been materially affected by (i) corrupt practices committed in the interest of returned candidate by himself and his agents, (ii) by improper reception and rejection of votes, and reception of votes which were void and (ili) by non-compliance with the provisions of the Act and the rules and orders made thereunder; (b) that in fact the petitioner has received a majority of valid votes and (c) but for the votes obtained by the returned candidate by corrupt practices and invalid votes, the petitioner would have obtained a majority of valid votes. The petitioner has also prayed for award of cost.

10. This case is contested only by Respondent No. 4, the returned candidate. He entered appearance in this case on 27th September, 1967 and on the next day he filed a recriminatory petition under section 97 of the Act. He filed his written statement on 21st November, 1967, as directed by the Court. It is contended on his behalf inter alia that the election petitioner is fit to be dismissed as being not maintainable and because of the non-compilance of the provisions of sections 80, 81 and 117 of the Act. The election petition was not filed in accordance with section 81 of the Act within 45 days from the date of the election of Respondent No. 4 and it was fit to be dismissed. Sufficient number of copies of election petition had not been filed along with the petition as required by section 81 of the Act and so it should be dismissed under the provisions of section 86(1) of the Act. The allegation was not verified as required by section 81(3) of the Act. It is further alleged that the statement of material facts concerning corrupt practices were not given and full particulars thereof have not been disclosed as required under section 83 of the Act. The statement made in paragraphs 1 to 14 of the election petition were not denied, but all averments made in other paragraphs were denied or stated to be incorrect. There was no confusion at the time of counting of votes and it was quite possible at least for the agents of the petitioner to observe the counting. The result of boothwise counting was being announced and thereafter the counting of other booths were being done on separate table. There was no irregularity in the counting of votes as alleged by the petitioner. On 24th February 1967, when the petitioner was defeated and the result was announced, he filed a petition of four to five lines with prayer to recount the ballot papers while they were being counted. Rather, a large number of ballot papers were counted in favour of the petitioner. The allegations regarding corrupt practices alleged to have been committed

held at Lumding (Assam). He is not aware of any appeal printed in Katihar Printing Press. The petitioner is a shrewd man and efficient to manufacture a case with the help of employees of N.F. Railways. It is not correct to say that any pamphlet or poster was pasted on the wall of Katihar railway station and other buildings. It was wrong to say that office bearers of the Katihar Railway Union approached the members of the said Union procuring votes in favour of this respondent.

- 11. This respondent never approached any voter or any railway employee or their relation to offer money in order to procure vote in his favour. No voter was carried in the car of this respondent and no rikshaw had been hired by his agent to carry voters. This respondent never engaged Jagdish Mahto or any other rikshaw puller to carry voters from their houses to polling booths. Jagdish Mahto is a man of the petitioner and other persons named in this connection are all men of petitioner who may be used in Court for adducing evidence in favour of the petitioner. It is wrong to say that the agents of the respondent attempted to impersonate any voters at Milki booth. There was no attack or counter-attack as alleged at that booth and there was no matter for compromise by the intervention of the Mahanth. The petitioner appears to have concocted the story like this. No official car was used by the respondent for carrying voters either at Barari booth or at any other booth. It was, therefore, on the basis of the above averments it was prayed that the election petition be dismissed with sufficient cost to the respondent.
- 12. In the recriminatory petition it was alleged that the trial of the election petition commenced on 21st September, 1967 and the petitioner was filed in compliance with the provisions of sections 97 and 117 of the Act. The petitioner procured several votes in the name of genuine voters by false personation, and the respondent was entitled to receive those votes which were tendered in his favour. The petitioner and his agents managed to procure a large number of votes in the name of voters who were dead or who were living outside the constituency on the date of poll. There were some mistakes committed on the electoral roll because several voters were enrolled at two places. The petitioner and his agents and workers produced voters of several such voters twice in favour of the petitioner. So, if the votes illegally and wrongly polled in favour of the petitioner are eliminated and the tendered votes are added in favour of the respondent, the petitioner would be further defeated by several thousand votes. About two thousands ballot papers which were validly polled in favour of the respondent were wrongly rejected. Several ballot papers which had seal on the symbol of the respondent but the ink was faint and the cross mark was not bright were wrongly rejected. Several ballot papers which had crossed the mark on the symbol 'pair of bullock with yoke on' but had red spot elsewhere because of folding were rejected. Some of the ballot papers which were blank having crossed the mark were wrongly counted in favour of the petitioner. On these averments it was prayed that respondent No. 4 should be allowed to give evidences on the points raised in the recriminatory petition.
 - 13. The following issues have been framed for the determination of this case:
 - (1) Is the election petition liable to be dismissed for non-compliance with the provisions of Section 81(3) of the Representation of the People Act 1951 inasmuch as the necessary attested copies of the election petition were not filed along with the election petition?
 - (2) Was the election petition not duly signed and verified in accordance with the provisions of law at the time when it was filed and is the same liable to be dismissed on that account?
 - (3) Are the particulars of alleged corrupt practices as given in the election petition, vague and inadequate and is the election petition liable to be dismissed on that account?
 - (4) Was there any improper reception and refusal of votes as alleged in the election petition and recriminatory petition and, if so, was the result of election materially affected thereby?
 - (5) Were the counting and scrutiny of the ballot papers not done in accordance with the provisions of law, as alleged in the election petition and recriminatory petition and, if so, was the result of the election materially affected thereby?
 - (6) Was any corrupt practice committed on behalf of the respondent No. 4 as alleged in paragraphs 42 to 52 of the election petition and was the result of the election materially affected thereby?

(7) It the election of respondent No. 4 liable to be declared void and is the petitioner entitled to be declared as elected?

Findings

14. On behalf of the petitioner 24 witnesses were examined and on behalf of the respondent No. 4, 12 witnesses. For sake of easy reference, I have summarised their evidence in a tabular form. Appendix 'A' contains the summary of evidence of the witnesses examined on behalf of the petitioner and similarly Appendix 'B' contains the summary of evidence of the witnesses examined on behalf of respondent No. 4:—

APPENDIX 'A'

No.	Name	Residence	Occupation	Evidence Remarks.
τ	2	3	4	5 6
I	Ramashray Singh (Rajput)	Katihar .	Business	Voter. Heard hulla 4 times, Respondent 4 and Io others made force entry into counting booth.
2	Ghhailu R im (Jat)	Diaka Nangal (Rajasthan)	Truck- driver at Katihar.	Voter. Heard mike announcement, Sita Ram Kesari & others made forced entry in counting Pandal.
3	P.tambar Pd. Singh (Rajput)	Najra Chaoki P.S. Konha	Ex-Student.	Irregularity in counting Agent ting of votes, Respondent No. 4 and his men forced entry into counting Pandal.
4	Anandi Singh (Rajput	Mohalla Caushala (Katihar)	Cultivator	Irregularities in Counting Agent counting of votes.
5	Md. Zai rul Haque (Musiim)	TT . 1	Do.	Irregularity in counting—great rush— Assembly seat voters carried on conveyance—pamphlet published.
6	Ram e shwar Jha (Brahmin)	Narayanpur Nabtolia P.S. Biho r, Dist, Bhagal- pur.		Agreement between Jan Sangh and Congress that assembly votes to Jan Sangh and Parliamentary votes to Congress at the intervention of Mahanth Kanushal Kishore.
7	Pitamber Jha (Brahmin)	Narayanpur Nabtolia.	Biri Merchant	As above,
8	Rum Lagan Rai (Yadav)	Goshala Katihar,	Cultivator & Trade Union Worker.	Irregularities in Counting Age Counting as P.W.3. of Petitioner Table 5.
9	Ramjit Bhatta- charya (Brahmin)	Katihar,	Private tuto r .	Irregularities in Counting Age counting. in Counting Age of Petitioner Table No. 15.

I	2	3	4	5	6
10	Kamal Lochan Maitra (Brahmin)	Katihar	Student B.Com. Pt. II	Irregularities is counting.	at Table No, 12.
ľ	Jadunandan Thakur (Brahmin)	Sadanandpur P.S. Lakh- minia, (Monghr)	At Kati ^r ar Saloon keeper.	Voters carried o rickshaws with C gress emblem pa posters.	
I 2.	Md. Sabdul (Muslim)	Amlatoli Katihar.¶	Rickshaw puller.	Carried voters of	n
т3	Motilal Purkaya- stha (Kayestha)	Alipur-Dwar Distt. Jalpaiguri.	Trade Unior Worker.	n Posters distribute and pasted on ra way building pages of voucher hung up at boo in Katihar. Vot- offered bribes.	·il- 4 list oth
14	Yabraj (Rajput)	Kumaripur P.S. Mambari Purnea. #	Patna i M .L.A.	Saw counting of votes irregularit given on 22nd a 24th.	
15	Alok Kumar Mitra (Kashtha)	Aiho P.S. Habibpur, Dist. Malda	Short-hand Student.	Voters carried conveyance. Not car number.	on ed
16	Deotosh Moitra alias Niloo (Brahmin)	Amlatola, Katihar.	Accourts Clerk in Calcutta Firm.	Irregularities in counting.	Gounting Agent of applicant for 3 days.
17	Hari Mohan Mazumdar (Kashtha)	Barabazar Katihar.]	Asstt. Station, Master.	Posters pasted	on ·s— to
18	Swaminath Tewai (Brahmin)	Haluar Pipra, P.S. Barauli, Distt, Saran,	Engine cleaner in Railway at Katihar.	vehicles.	ea- n- & ed on
19	P.W. 4 recalled. Surendra Prasad	Hathua,	Baniatola,	One irregularity gi Irregularities	ven in Counting Agent,
-7	Singh (Rajput)	P.S. Mirganj, Dist. Saran.		counting of votes.	
20	Basdeva Dutta (Kayestha)	Drivertola, Katihar	Superior field worker Filaria Deptt, Bhagalpur,	, counting of vot (3 officers went of at 9 P.M.)	out
2 ř	Merinal Kanti	Alipur Doar	В.Т.М.	In cross favour other	
4.	Biswas (Kayestha)	Junction, Distt. Jal- paiguri.	Fitter in the Rly.	Railway Uni Resolution pass at general meeti to help Congre Had seen post on train.	on. ed ng es.

I	2	3	4	5	6
22	Gauri Shanker Ram (Kumhar)	Kumhaila P.S. Balia (U.P.)	Diesel Railway at Katihar.	Posters were seen pasted on Rly. Buil- ding and distributed.	
23	Dinnath Rai (Rajput)	Basantpur, P.S. Ballia (U.P.)	Carriage Khalasi in Rly, at Katibar,	Offer of money by respondent 4 to voter. Posters pasted and distributed.	
24	Hari Prasad Ghosh (Ghosh Yadav)	Mangalbarar Katihar.	Stationery shop- keeper.	Voters carried on rickshaws with Congress flags and posters.	
~	P.W. 13 recalled.			Letter signed by Chief Personnel Manager, N.F. Rly,	Ext. 2.
		AP	PENDIX 'B'		
		Respo	ndent No. 4		
I	2	3	4	5	6
1	Zainul Abdeen (Muslim)	Milki, P.S. Bihput, Disti Bhagalpur.		No distrubance at Milki booth. No Mahanth intervened.	Polling Agent of Sukhdeo Choudhary.
2	Awadesh Kumar Singh (Sikh)	Barinagar, P.S Barari, Dist. Purnea	Cultivator	No voters carried by car.	Supporter of Basudco Pd Singh candidate for Assembly seat.
3	Hans Raj Saraf (Agrawala)	Barabazar, Katihar.	Jute and other business	No voters carried on conveyance. No posters on behalf of respondent 4 printed or pasted. No Rly. man canvassed votes for him. No money offered to any body. No irregularity in counting.	Polling Agent of respondent No. 4 at booth No. 24. Also counting Agent on 22-2-67.
4	Satvanarain Singh (Yadav)	Marangi P.S. Katihar	Cultivator	No outsiders went inside the counting Pandal. No confusion, Respt. No. 4 did not enter Pandal on 24th. No irregularity for applicant but for respt. No. 4.	Counting Agent of Rspt. No. 4 at Table 9.
5	Ram Das Rai (Rajbhar)	Manihari P.S. Manihari (Purnea)	Gultivator	Peaceful counting, Irregularities in counting.	Counting Agent of Respdt. No. 4 at Table No. 11.
6	Harihar Pd. Kesari (Vaiyasya)	Binodpur (Katihar)	Grain merchant.	Peaceful counting. Kosha taken up after Katihar. Irre- gularity in counting of votes.	Counting Agent,

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7	Nivaltishor Pd. (Kayastha)	K it 'har	Agent of Rdy. Book- stall.	Rly. employees did not canvass for Respdt, No. 4 Poster Exts. 4 and 4 (a) were not pas- ted on Rly. bu ld- ings. Har: Mohan Mazumdar was d.s wissed. Appli- cant reported his case.
8	Ramdahin Singh (Rijput)	Harsar S kandarpur (Ballia)	Amlatola Katihar, Lecturer in Katihar College,	Voters not cerried on conveyances. No posters of flags on rickshaws on date of polling.
9	Shambhu Nach Sharma (Brahmin)	Katihar	Employed in Aruna Agarbatti Co.	No tea-stall near Relieving Mess. No offer by Respdt. 4 of money to any body.
10	Rabindra Kumar (Yadav)	Nabtolia Naraya pur P. S. B hpur Bhagaipur,	Student Veterinary College Patna	Rameshwar Jha and Patamber Jha were issuing identity slips for P.S.P. and were present at the booth all along.
11	Jogendra Pd. Cha id iry(Jaiswat)		Coal merchant	No yoter carried by rickshaws etc. Jacus- nandan Thakur was not paid monity.
12	Si a Ram Kəşari (Kesarwain Va y- sya Cani dafe) Respondent No. 4	Danapur Cant.	М. Р.	No confusion in count ng illegal reception of votes for applicant and illegal rejection of votes against me. Denies all allegations.

15. Issue Nos. 3 and 6.—Both these issues can be conveniently dealt with together as they are interrelated. Section 100 of the Representation of the people Act, 1951 (hereinafter referred to as the Act) deals with the grounds for declaring election to be void. In the present case, we are mainly concerned with clauses (b) and (d) (iii) of that section. The various sub-sections of Section 123 of the Act enumerate the various items of corrupt practices. It may be further mentioned that a new Chapter IXA has been incorporated in the Indian Penal Code by the Indian Election Offences and Enquiry Act (Act 39 of 1950). This chapter deals with offences relating to election, such as, bribery undue influence, false personation, illegal payment, failure to keep election account etc. It is, therefore, clear that certain type of corrupt practices are also punishable as substantive offences under the Indian Penal Code. As laid down by Section 99 of the Act, the Court trying the election case has to record a finding whether a corrupt practice had been proved to have been committed or not. It has further to indicate the name of each such and every person who has been proved at the trial of election case to have been guilty of any corrupt practice as well as the practice nature of that practice. It is, therefore, abundantly clear that the commission of corrupt practices has been viewed with great seriousness. It has been observed in several cases, decided by the Court trying election cases, that the charges of corrupt practices are quasi criminal in nature and the allegations relating thereto should be sufficiently clear and precise just like a charge in a criminal case. Consequently, the evidence, which is required to prove such a corrupt practice must be clear, cogent and convincing. Similar views expressed in a Division

Bench case of this very Court reported in A.I.R. 1961 Patna 41 (Badri Narain Singh and others V_s . Kamdeo Prasad Singh and another). It expressed the view that the petitioner in an election case has to prove the alleged corrupt practices beyond reasonable doubt and the respondent has similarly all the privileges of an accused and is entitled to the benefit of doubt. In the case of Chandrashekhar Singh Vs. Sarhoo Prasad Singh and another reported in this very volume at page 189, another Division Bench of this Court gave the opinion that the election petition which does not set out the names of such voters suffers from an incurable infirmity in this regard and the charge is bad on this ground alone. In a case reported in A.I.R. 1965 S.C. 183 (Jagdeo Singh Sidhanti Vs. Pratap Singh Daulta and others), it was remarked that in such a case the burden of proving that the election of a successful candidate is liable to be set aside on the plea that he was responsible directly or through his agent for corrupt practice at the election, lies heavily upon the petitioner and the election petition must fail unless the corrupt practice is established in both its branches, namelyy, the commission of act which the law regards as corrupt and secondly the responsibility of the successful candidate directly or through his agent or with his consent for its practice not by a mere preponderence of probability but by congent and reliable evidence beyond any reasonable doubt. The importance of this aspect of the matter was reiterated in another case decided by the Supreme Court reported in A.I.R. 1966 S.C. 773 (Dr. Jagit Singh Vs. Glani Kartar Singh and others). At the outset, I may point that under the Act, as it stands at present, the election petition canot be dismissed under the provision of Section 86 of the Act for noncompliance with the provision of Section 83 of the Act which deals with the contents of the election petition. Section 83(1)(a) lays down that an election petition shall contain a concise statement of the material facts on which the petitioner relies and clause (b) lays down that an election petition shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice. Of Course, it does not provide as to what would happen if such details are not given. In such circumstances the general law of evidence and pleading must have its effect. It is solatory rule of evidence that the alllegations against a party must be clear and specific so that he may properly meet the charges. No party should be allowed to spring a surprise just at the time of adducing evidence and have the charges. the other party may not be left bewildering as to how to meet that allegations which was levelled at such a late stage of the case. The importance of giving such details was clearly indicated by a Division Bench of this Court while deciding an issue in M.J.C. No.36 of 1954. Their Lordship observed that what are material facts and what is evidence must vary with reference to the nature of claim and the allegations made; for example, material facts with regard to a claim based on undue influence, fraud, misrepresentation etc. are not exactly the same as with regard to other claims as for example carrying of voters on vehicles and bribing some particular voters. It is obvious that the expression "material facts" with regard to such allegation must include the names of the persons who committed the fraud as also the names of the persons who were the subject of the fraud. In order to ensure a fair and effectual trial of the election petition, it was necessary to indicate the names of the persons who gave the bribe as also the names of the persons who accepted the bribe. In my opinion, the expression "the name of the parties alleged to have committed such practice" in clause (b) of sub-section (1) of Section 83 of the Act clearly indicates that the parties to the corrupt practices must mean both sides, namely, the person who commits the corrupt practice as well as the person on whom the corrupt practice is committed.

16. We have therefore to critically analyse the evidence which has been adduced in this case against this legal background. So far as this case is concerned, the allegations concerning corrupt practice may be classified into five groups as follows:—

(i) Offer of bribe to voters and workers as mentioned in paragraphs 45, 46 and 49 of the election petition.

This is with reference to sub-section (1) of Section 123 of the Act.

- (ii) Commission of undue influence as alleged in paragraph 51.
 - It refers to violence at Mijki booth on the date of poll. It is with reference to sub-section (2) of Section 123 of the Act.
- (iii) Use of car with Asok Chakra at Berari booth as alleged in paragraph 52 of the election petition.

This is with reference to sub-section (5) of Section 123 of the Act.

- (iv) Carrying of voters on conveyance, namely, cars and rickshaw on the date of poll.
 - These allegations are contained in paragraphs 47 and 48 of the election petition and it is alleged that the allegations are covered by subsection (5) of section 123 of the Act.
- (v) Assistance from railway employees of N.E.F.R.
 - These allegations are contained in paragraphs 42, 43, 44 and 50 of the election petition and these are with reference to sub-section (7) of section 123 of the Act.

All these allegations have been denied in the various paragraphs of the written statement.

Item No. (i) Offer of bribe to voters and workers

- 17. Concerning this allegation, a reference may be made to paragraph 45 of the election petition. It is stated that the office bearers of the Kathar Branch of the N.F. Railway Employees Union approached the members of the Union in a large scale for the purpose of procuring votes for respondent No. 4 on payment of money and promise of other benefit. It is apparently all vague. Which office bearers of the Union approached such members of the Union, at what place, on what date and to whom the offer was made, all these necessary details are wanting. In paragraph 46, it is stated that respondent No. 4 approached a number of the railway employees and their relations to offer them money to procure votes in Kathar and other areas. Here also the allegation is very vague and the necessary particulars as mentioned above have not at all been indicated. It does not indicate that voters had been approached with money rather it says that a number of railway employees and the relations were offered money so as to procure votes for respondent No. 4. In paragraph 49, the names of three persons have been mentioned whom, it is said, bribe was offered for procuring votes for respondent No. 4 and this offer was made by respondent No. 4 himself and also by his agent and some local Congress-men, who worked for respondent No. 4. Those three persons are Haribal Maharaj, Jadunandan Thakur, and Aşarfi Thakur. Out of these three named persons, only Jadunandan Thakur has been examined as P.W. 11.
- 18. It is to be noted that this Jadunandan Thakur is not a voter of Katihar Constituency but is a voter of Monghyr. He does not say a word about the offer of bribe to him. Learned Counsel for the petitioner, Mr. B. C. Ghosh, has vehemently argued that this witness could not say that he had accepted bribe otherwise be would have also been criminally liable for the offence of accepting the bribe. So far his argument may be accepted as correct but here Jadunandan Thakur could have said that bribe was offered to him and he declined to receive it or that simply the bribe was offered to him. By saying that much he must not have exposed himself to any criminal action and hauled up for an electoral offencee. It has been rightly argued on behalf of respondent No. 4 that if Jadunandan Thakur was bribed by him, he must have worked for him and would not have deposed for the petitioner. It is nowhere said as to such and such agents or anybody else on behalf of respondent No. 4 bribed Jadunandan Thakur.
- 19. In this connection let us analyse the evidence of some of the witnesses who have spoken on this point. P.W. 13, Moti Lal Purkast, is a Trade Union worker and lives at Alipur Dwar which is about 300 miles away from Katihar. His evidence is to the effect that Jadunandan Thakur told him that some Congress people had come to give him bribe for voting and that he further told him that several other people were similarly approached. This evidence is too vauge to be accepted. Which Congress people had approached Jadunandan Thakur has not been said. Moreover, Jadunandan Thakur also does not say that other persons had been approached on behalf of respondent No. 4 with money for securing their votes. P.W. 13 does not connect the offer of bribe either with respondent No. 4, his election agent or any other agent much less with his consent or knowledge. Admittedly the Congress was contesting both for the Assembly seat and Parliament seat and if some Congress-men indulged in such a corrupt practice, it cannot necessarily be presumed that it was only for respondent No. 4. Queer argument was advanced by learned Counsel for the petitioner that in order to meet this point, respondent No. 4 ought to have examined the election agent or polling agent or any other agents of the Assembly Congress candidate to offer a denial to the effect that such type of canvassing was not done for the Congress Assembly candidate. As pointed out carlier, the onus to establish the corrupt practice rests entirely on the person, who alleges it and merely because a denial was not taken to

exclude the possibility of the canvassing having been done for two Congress candidates, it cannot be said that the evidence given by the petitioner however, faulty or vauge should be accepted as reliable and worth acting upon. P.W. 17. Hari Mohan Mazumdar of Katihar, is another witness on this point. He has said that during the last general election, he was not in railway service but he was doing some Life Insurance job. A question was put to him by learned Counsel for the petitioner to the effect whether he was offered bribe by respondent No. 4 and his agent so that he would secure votes for him. This question was disallowed by this Court, apparently because no such detail was given in the election petition and a surprise cannot be allowed to be sprung for the first time just at the time of examination of this witness. Any, way, he was allowed to say that in his presence money was given by the agent of respondent No. 4 to Jadunandan Thakur. This wintess had been removed from the railway service in April, 1965 and subsequently. he was employed in the railway. Learned counsel for respondent No. 4 has argued that during this period he was working on the side of the Railway Mazdoor Union of which the petitioner was the Secretary. He was put several questions about this offer of bribe to Jadunandan Thakur and he admitted that he did not file any petition before any authority that Jadunandan Thakur had been given money for procuring votes. This witness is vitality interested in the affairs of the Secretary of the Union and so it is not safe to rely on his evidence. P.W. 23, Dina Nath Rai, is another witness on this point. It is significant to note that the name of this witness was never given in any of the previous list of witnesses. His name was mentioned in the list of witnesses dated 13th May 1968 and was examined only two days after, i.e. 15th May 1968. He is a carriage Khalashi in railway at Katihar, he has stated that three days before the election he saw respondent No. 4 and others coming to a tea stall and canvassing votes in his favour by saying that he would give them money, if needed, and they should vote for him. This statement is very vague and it is not expected that respondent No. 4, who was a candidate for Parliament seat would go on saying openly to people that he would give money to those who would vote for him. He is expected to speak with restraint. Moreover, this evidence is not in accordance with the allegation made in the election petition. It was never mentioned before that respondent. No. 4 made this general offer of bribe at such and such tea stall. The proprietor of the tea stall is said to be Jethu Ram, who belongs to Monghyr district. I may mention here that the petitioner himself did not come before the Court to state on oath anything in support of the allegations made in the election petition

20. This is all the evidence concerning this sort of allegations of bribe. On behalf of the respondent, the denial has come from R.Ws. 3, 7, 9 and 12, R.W. 9, Hansraj Saraf, worked as polling and counting agent of respondent No. 4 and he was competent witness to speak on the point. Similarly, R.W. 9, Shambhu Nath Sharma, has stated that there was no such tea stall close to the relieving mens. Any way, it was the duty of the petitioner to substantiate this allegation of corrupt practices; but in my opinion, he has miserably failed to do so. So this point must be decided against him.

Item No. (ii) under influence.

21. The allegation of the petitioner as embodied in paragraph 51 of the election petition is that there was an attempt to impersonate severeal voters in the polling booth at Milki L.P. School near Bihpur by the agerts of respondent No. 4 which was detected by the supporters of the other candidate and this resulted in violent attacks and counter-attacks between the supporters of the two groups. The matter was ultimately compromised between their agents by intervention of Mahanthji on the clear understanding that they would jointly appeal to the voters in the polling booth for respondent No. 4 for the Parliamentary Constituency and the Jan Sangh candidate for the Assembly Constituency. A plain reading of this aflegation clearly indicates that the allegation is as vague and general as not to afford any opportunity to respondent No. 4 to meet this allegation. It is not stated as to which agent of respondent No. 4 created rewdyism. It is not stated as to which Mahanthji of which Asthal had intervened in the matter. It is further not indicated as to whether the effect of any such compromise materially affected the result of voting at that booth. In this connection, the petitioner has examined two witnesses, i.e., P.Ws. 6 and 7. P.W. 6, Rameshwar Jha, is a resident of Narayanpur Nahtolia, which is about five to six miles away from Milki. He had to cast his vote at his own booth in village Narauanpur Nabtolia; still he went to Milki on that date. He stated that he saw some persons armed with lathis and bhalas creating trouble outside the booth area Many persons were fleeing here and there and Mahanth Kaushal Kishore Das was trying to pacify them. It is, therefore, clear that he is not at all definite as to who those persons armed with lathis and bhalas were, whether they were voters, agents, goondas, outsiders and

so on. He further says that Mahanthji pacified the parties and said that the Assembly votes may be given in favour of Jan Sangh candidate and the Parliamentary votes in favour of the Congress candidate. He further admitted in his cross-examination that he did not give the names of those who were indulging the rowdyism to any candidate. He could not say as to who were the polling agents of which candidate at that booth where he stayed only for about an hour. During that period the patrolling party had come but he did not report the matter to them. He further admitted that he did not recognise any worker of any party of that booth Learned Counsel for respondent No. 4 has urged that this witness was never present at the Milki booth on that date because he is not able to give any detail about the polling staff, agents and other persons of that place. In my opinion, no reliance can be placed on this witness. The next witness is P.W. 7, Pltambar Jha. He is a resident of the same village Narayaopur Nabtolia He has said that he went to wilki by train and reached there at about 1 P.M. to make demands about arrears of Biri price from Deputy Sukul and Ganesh Sukul. He had gone to Milki booth a little later than 2 P.M. According to him the dispute was going on between two parties and the mob consisted of Hindus. Mahanthii intervened and settled the dispute. The Mahanth suggested that the voters would vote for the Jan Sangh candidate in case of Assembly seat and for Congress candidate in case of Parliamentary seat. The cross-examination of this witness clearly goes to establish the fact that he had not, perhaps, gone to that place at ell. He knew only two persons of Milki, i.e., his own debtors. He could not say which person was doing work for which party. He did not say the votes of which villages had been tagged to Milki booth. According to him the Mahanth was the worker of Jan Sangh party. He could not say who were the polling agents of which party at the polling booth. He could not even say in which direction the Milki booth faced not how many Government offers were there in the booth. He could not say how many booths were located in that school. He did not know the name of anybody of that crowd who was engaged in dispute and rowdylsm. In view of such statements, it can be safely accepted that this witness was giving a tutored evidence. The denial of this incident has come from R.Ws. 1, 10 and 12. R.W. 1, Jainul Abedin, belonged to Milki itself and he said that there was no crowd or rowdylsm or any kind of disturbance in front of the booth between the workers of the Congress party and the Jan Sangh. He further said that Mahanth Kaushal Kishore had not to intervene and to get the compromise effected. He was the polling agent of the Congress candidate. According to him, Saligram was another polling agent, who was working at that very school. He remained at the booth for the entire. period of voting with a very short interval of break. Ravindra Kumar (R.W. 10) is a student of Veterinary College, Patna. He belongs to Nabtolia Naryanpur. He stated that both P.Ws. 6 and 7, Rameshwar Jha and Pitambar Jha respectively were present in their own village on the date of polling and both of them were brothers (i.e. cousins). He had seen both of them on the date of poll at Nabtolia Narayanpur throughout. He appears to be a competent witness because he could give the various detai's concerning this polling at Nabtolia Naryanour. His own uncle was a candidate for the Assembly seat from the Jan Sangh party. So he appears to be a competent witness to speak on this point. P.W. 12 is respondent No. 4 himself and, of course, he gave a general denial of all the allegations.

22. Learned Counsel appearing for the petitioner argued that even when it was not said that the agents of Congress party were creating trouble, it should be accepted as such because there was no suggestion to the contrary. He further criticised the evidence adduced on behalf of respondent No. 4 by saying that he ought to have examined the Mahanth to deny the allegation. He further went on to argue that the agents of Milki booth who worked for respondent 4 ought to have been examined to deny the a legation. argument could have been accepted if the allegation denying this -rowbe dyism concerning Milki booth had to establish by No. 4. Ιt is well known that party who assets the prove it and not a party who denies it or gives a negative sort of evidence. So in my opinion, all this argument was misconceived. The ultimate result concerning this item of allegation is that in view of the evidence available on the record and in the circumstances, it must be held that the petitioner has miserably failed to establish this allegation. It is said that the compromise between two groups of voters or workers was an instance of undue influence. This I am not ready to accept. If two parties make any alliance to vote in a particular manner, it is not an electoral offence. The evidence does not show that any voter was intimidated or threatened and so this item must be decided against the petitioner.

Item No. (iii) Use of car with Asok Chakra

23. In paragraph 52 of the election petition, it is alleged that one official car was used extensively at the election and this car had the symbol of Asok Chakra and it was used in Barari School polling booth for carrying voters. It is clear from this averment that it is very vague and too general of a type. Several questions can be asked to c.ear up this point: which officer's car, which party carried it voters, which voters were carried, who were the persons incharge of this car and escorted voters therein. In my opinion, all such details ought to have been given by the petitioner in order to make a clear and definite allegation concerning carrying of voters in a conveyance so as to bring the action within the mischief of sub-section (5) of Section 123 of the Act. In evidence, it was tried to establish by production of Ext. 10 that the ownership of motor vehicle No. 465 was with Sri Lakshmi Narain Sudhansu. The number of the car was given for the first time in Court by P.W. 13, Moti Lal Purkayast. He said that he had gone to Barari booth on the date of polling and saw voters coming to that booth in a car which bore the emblem of Asok Chakra. Mostly female voters used to be taken in that car. It is to be noted that he is a residence of Alipur Dwar which is about 300 miles away from Kathar. In his cross-examination, he admitted that he did not know which village has been attached to Barari booth. He could not give the name of any voter who was carried in that car. He did not himself make a note of the number of the car but he gave this work to another worker of the petitioner. He did not say who paid the hire of the car or how much hire had been paid. Learned Counsel for the petitioner had argued that it is very difficult to give the names of voters, who were carried in conveyance by a party because if carrying of voters by a party is an illegal act the voters themselves as well as the persons who carries them in the car or conveyance become abetter of the offence. In my opinion all what he had argued on this point cannot be accepted as correct but this much can be conceded that it is difficult for a party or his agent to take down the names of those voters who alighted from conveyance because apparently they are voters of the adversary's camp and they would not readily disclose their names. But at the same time the difficulties to which respondent No. 4 wou'd be put may also be visualized. If some definite indication is not given as to which agent carried the voters at which place, it may be difficult to meet the allegation. Another witness who has spoken on this point is P.W. 15, Alok Kumar Maitra of the district of Maldah in Bengal. He was attracted by the name of the petitioner which was hung up at the election office and there he met Moti Lal Purkayasht for the first time in his life. He at once picked up sufficient acquaintance with him and accompanied him to Barari acquaintance with a power of the second polling booth on a jeep. There he saw a car with an emblem of Asok Chakra Congress flags were fastened on the rear part of the car. From that car 5 or 6 ladies and 3 or 4 males got down. He saw the male persons escorting females towards the pol'ing booth. In his cross examination this witness could not give the the number of the jeep on which he had gone to that booth. He said that he handed over the slip of paper on which he has noted the number of the jeep to Moti Lal Purkayasht, but the latter did not produce any such slip. He could not say which persons of Barari were voters and which were not. He did not recognise the males and females of Barari. Such being the worth of his evidence I do not think any reliance can be placed on his statement.

24. The denial of this allegation has come from R.Ws.2 and 12. R.W.2 is Awadhesh Kumar Singh of Barari. He has said that no voters, ma'e or female, were carried by any conveyance to booth on behalf of the candidates and no car bearing Ashok Chakra was employed in carrying voters. He appears to be a competent witness because he was supervising the work of Basudeo Prasad Singh, who was a candidate for Assembly seat from Barari Constitutency. So the aim total of evidence on this point is that the petitioner has miserably failed to establish this allegation. It cannot be said that respondent No. 4 had employed any car with Ashok Chakra to carry voters. As a matter of fact, it was not even sald so in paragraph 52 of the election petition.

Item No. (iv) Carrying of voters on cars and Rickshaws:

25. This item relates to carrying of voters on conveyances namely, cars and rikshaws on the date of poll in the town of Katihar. The allegations are contained in paragraph 47 and 48 of the election petition. In paragraph 47 of the election petition, it is alleged that a large number of voters were carried in car of respondent no. 4 and on hired rikshaw by agents of respondent no. 4 to polling booths particularly to booth no. 40 from the refugee colony at Katihar. In paragraph 48, it was further stated that one Jagdish Mehto, rikshaw puller of Katihar and other rikshaw pullers had been engaged by respondent no. 4 and his agents:

to carry voters from their houses to the polling booth and back. It is to be noted that in the election petition the number of car of respondent no. 4 which carried the voters was not given. It is not said as to who was the driver or which agent had accompanied the voters in that car... In my opinion, such details are necessary in order to meet those allegations. In this connection, I will briefly refer to the statement of those witnesses who have been examined to speak about carrying of voters.

26 P.W. 5, Md. Zainul Haque, has stated that he was a candidate for the Bihar Assembly seat from Katihar Constituency. He said that on the date of poll, he saw voters being carried on van of respondent no. 4 and a car and a large number of rickshaws had been engaged to carry voters for respondent no. 4 to the booth. It is to be noted that this witness belongs to the Praja Socialist Party from which the petitioner was a candidate for the Parliamentary seat. He introduces a new item of conveyance, namely, van, which was never indicated before. He could not give the names of the persons who carried these voters in the car or the van. In his cross-examination, he stated that he did not file any petition to the Presiding Officer alleging that the voters were being carried on different kinds of conveyances nor did he make any protest to any officer concerning this matter. His evidence further shows that the D.S.P. does the work of Mazdoor and Mazdoor party and they further do the work of Mazdoor Union and other Unions. He was the Joint Secretary of the Rickshaw Pullers Union and the petitioner was the leader of his party at Katihar. So he is a vitally interested witness in the affairs of the petitioner. The evidence of the next witness P.W. 11 Jadunandan Thakur, is rather vague. He said that on the date of po.l, he saw voters being carried to the poling booth on rickshaw. He saw the Congress flags having been fastened in front of the rickshaws and the Congress symbol of a pair of bullocks pasted on the back of the rickshaws. He further said that those rickshaws had been engaged on behalf of the Congress man. Admittedly there were other Congress candidates also who were contesting this election and so it cannot be said that the voters of respondent No. 4 being carried in such conveyances. He wanted to give the names of those persons, who were escorting those voters but that question was disallowed because it would amount to filling His evidence further shows that the D.S.P. does the work of ing this matter. those voters but that question was disallowed because it would amount to filling up the necessary gaps in the allegation. By way of amendment such gaps can be filled in but that will be a process which would give timely information to the other side to meet that particular allegation. He further admited that he saw the voters being carried to the booth located at the Employment Exchange Office. He does not say wherefrom those voters were being carried and the name of the Employment Exchange booth was not mentioned in the election petition. From the printed list of the polling stations, it appears that the booth at the Employment Booth No. 40 is located in Islamia High School. Exchange is numbered as 27. Exchange is numbered as 27. Booth No. 40 is located in Islamia High School. It, is therefore, clear that the booh number was given at random and the evidence is not according to the allegation made in the petition. On these grounds, therefore, the evidence of P.W.11 cannot be accepted. P.W.12. Md. Sabdual, is a rickshaw puller. His name was not mentioned in the election petition but he was examined to say that he carried voters from Amla Toli and refugee colony to the Employment Exchange booth. The name of Simla Toli was introduced for the first time in evidence. In the cross-examination, he produced his literates which is dated the literates and he further attack that duced his licence which is dated 9th June, 1967 and he further stated that since after the receipt of that licence he had carried many passengers concerning whom he could not say the place from where he carried them and place to which they were taken. It is, therefore clear that this witness was put in the witness box to support this allegation though he had nothing to do with the carrying of voters prior to the grant of licence. Learned Counsel for the petitioner had argued that this licence was not the first licence which this rickshaw puller has got but he has got other licence also of earlier date. In my opinion, this argument cannot be accepted because this fact was challenged on behalf of respondent No. 4 and in spite of this challenge the previous licences were not produced nor any extract from the municipal register to show that this witness was licensed rickshaw puller from before. He does not say clearly that he carried voters, not to speak of voters of which party. So his evidence is not at all concerned with the affairs of respondent No. 4 and his evidence can be safely ignored.

27. The next witness, who spoke about this fact is P.W. 13. Moti Lal Purkasht. He appears to be a good supporter of the petitioner and an intensed worker of his. He belongs to Alipur Dwar in the district of Jaloalguri in Bengal. He has said that he was doing canvassing work for the petitioner in the last election. From his evidence, it appears that learned Counsel for the petitioner. Shri B. C. Ghosh, was working as the President of the Railway Mazdoor Union and the applicant was its Secretary. He stated that he saw Congress workers carrying

voters in rickshaws and van. This is too vague a statement. He does not give the name of those Congress workers nor does he say on whose behalf they were working. If this ardent worker of the petitioner had really seen voters being carried in rickshaws, he must have taken a series note of the same and informed the authorities at the right time. The next witness P.W. 15, Alok Kumar Maitra, has spoken about the carriage of voters at Barari booth which has already been discussed. P.W. 17, Hari Mohan Mazumdar, was at that time a discharged railway employee. He said that on the date of poll motor cars and rickshaws had been employed by respondent No. 4 for carrying voters to the booth. He does not give the number of the motor cars nor the names of the rickshaw puller. Admittedly he was not present at the time when these cars or rickshaws had been employed and so he is not a competent witness to say that they had been employed at the expense of respondent No. 4. He further admitted that he was sitting inside the booth and the Persons were alighting from the conveyances outside the booth. He could not see who were those persons who were getting down conveyances. In my opinion, therefore, his evidence cannot be accepted. The last witness on this point is P.W. 24, Hari Prasad Ghosh. He is a stationary shop-keeper. He said that he saw several rickshaws carrying tricolour flags, i.e., Congress flags and some posters pasted at their backs with figures of a pair of bullocks and voters were being carried on those rickshaws. Men of Congress party were escorting them. But this witness did not know the names of those men of the Congress party nor could be give the name of any voter or the name of any rickshaw puller. It was suggested to him that the railway Union had allowed him to run his shop on the railway land. He had to cast his vote at Driver Tola booth but he does not know its number or the name of the polling agent. He knew that the carrying of voters on rickshaw was illegal, still he did not make any complaint anywhere. This is all the evidence which the petitioner has given in this connection and in my opinion, he has not been able to establish his allegations concerning carriage of voters in conveyance by respondent No. 4 on the date of poll. Of course on behalf of respondent No. 4, this allegation has been denied. The argument of learned Counsel for the petitioner cannot be accepted that respondent No. 4 ought to have examined the polling agent of booth No. 40 or even of booth No. 27 to deny the allegation. So this point also is decided against the petitioner.

Item No. (v) Assistance from railway employees:

- 28. The allegations concerning this item are contained in paragraphs 42, 43, 44 and 50 of the election petition. The general allegation is that respondent No. 4 had taken the assistance of railway men who were the members of the N.F. Railway Employees' Union to obtain and procure votes for himself. These railway employees were Government servants and were prohibited by law from taking such a part in the election. Another allegation is that the general body of the N.F. Railway Employees' Union decided at a meeting held on the 29th to 30th December, 1966, to appeal to all the railway employees of the N.F. Railway to cast their votes for the Indian National Congress. This appeal was printed in the Katihar Printing Press in 1967 by the N.F. Railway Employees' Union in the form of poster and pamphlets. The pamphlets were freely distributed and posters were pasted on railway premises, etc. This pamphlet, Annexpre 'A' was published in contravention of Section 127A of the Act by respondent No. 4 through N.F. Railway Employees' Union.
- 29. I may point out here that these allegations are made with reference to subsection (7) of Section 123 of the Act which lays down that the obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent, or, by any other person with the consent of a candidate or his election agent, any assistance other than the giving of votes for candidate's election, from any person in the service of the Government and belonging to any of the six classes enumerated therein and the 7th class includes such other class of persons in the service of the Government as may be prescribed. The expression 'prescribed' means under section 2(g) of the Act prescribed by rule made under this Act. On behalf of the petitioner, it could not be established that these members of the aforesaid Rallway Union belong to any of the classes mentioned under sub-clause (7) of Section 123 of the Act, and this point was practically conceded though on behalf of the petitioner attention was drawn to Ext. 6 which was issued by N.F. Railway to all Principal District Officers etc. It is concerning the position of Government servants in relation to election. Apparently, this letter has not been prescribed by rule made under this Act. It reminds the railway men who are Government servants that they are liable to disciplinary action under the Central Civil Services (Conduct) Rules, 1964 as well as under Sections 129 and 134 of the Act. These two sections relate to different matters which are concerning the duties of

the Presiding and Polling officers. The order from books of the Kathar Printing Press were obtained and the counter-foil receipt No. 748 shows that one Sukhdeo Naryan, M.L.A., Kathar, gave order for the printing of 7,000 posters for railway and it was received by somebody on his behalf on 13th March, 1966 (1967 appears a mistake for 1966). The same thing has also been mentioned on counter-foil receipt No. 616. It has been argued on behalf of the petitioner that the Kathar Printing Press has not produced the original register which shows the receipt of order and delivery of printed matters to the order giver. The Manager and the Proprietor of the Kathar Printing Press had come to Court but he was not examined by either party. He produced the papers which were in his custody and at the time of filing those papers it was given out on his behalf that he had no further papers and record in this connection. So clearly there is no evidence to show that these posters were printed at the instance of respondent No. 4 or his election agent or any other agents. So the allegation made in paragraph 50 in the election petition that the pamphlet Annexure 'A' was published by respondent No. 4 falls to the ground. It was also given out on behalf of the Kathar Printing Press that they could produce the original copy of this pamphlet which was given at the time of placing the order and they are in English and Hindi vide Exts. 4 and 4/9. The Bengali copy was misplaced somewhere. Any way, the English copy reads as follows:—

"AN APPEAL

TO THE RAILWAY EMPLOYEES TO VOTE FOR

INDIAN NATIONAL CONGRESS

In the 9th Annual Convention of the N.F. Railway Employees Union held at Lumding on 29th, 30th and 31st December, 1966 the following resolution was adopted unanimously.

RESOLUTION

This annual General Meeting resolves to appeal to all the Railway Employees of this Railway to cast their VOTES for the INDIAN NATIONAL CONGRESS, as in the firm opinion of this meeting the INDIAN NATIONAL CONGRESS is the only Political Party capable of leading the Country on its march towards PROGRESS AND PROSPERITY.

Sd./- L. D. KATORI, M.P., President, N.F. Rly. Employees Union.

Publicity Department, N.F. Rly-Employees Union, Katihar, Katihar Printing Press-67".

The Hindi rendering is also to the same effect. It is, therefore, clear that L. D. Katoki, M.P., who was then the President of N.F. Railway Employees Union got this appeal issued to the voters. On a plain reading of this appeal, it cannot be said that it does contain any objectionable matter not can it be argued that it could produce undue influence on the members of the Union. I may point out here that when learned Counsel for the petitioner found that his allegation regarding the appeal issued by railway men could not be brought within the purview of subsection (7) of Section 123 of the Act, he took up another position at the time of argument and laid stress that this was an instance of indirect undue influence. In my opinion, this argument is untenable. It was solely the work of the members of the Railway Union to adopt at their meeting which was held at Lumding (Assam) that the members of the Union should vote for the Congress party. Respondent No. 4 was not the only candidate on behalf of the Congress party. The members of any Union are at liberty to express their views in favour of any particular candidate and this cannot be said to be exercising of undue influence either directly or indirectly on the voters. Learned Counsel further argued that the members of the Union owed allegiance to the Union and the Union expected their fidelity. So in that view of the matter, there was indirect interference in free exercise of voting. But as discussed earlier this poster cannot be taken as producing any undue influence on the voters or interfering with their free exercise of frenchise. I may then briefly refer to some of the case laws which have been cited before me.

30. In the case of Ghayar Ali Khan vs. Keshav Gupta, reported in A.I.R. 1959 Allahabad 264, portrait of Mahatma Gandhi was issued during the election campaign and it was held that its use did not constitute a corrupt practice. It was further pointed out that even making false statements concerning leaders and

others would not amount to undue influence and thereby made a corrupt practice. In the case of Biresh Misra vs. Ram Nath Sharma and others, reported in A.I.R. 1959, Assam 139, it has been pointed out that in the absence of any evidence to prove that the document containing objectionable statements was published and printed at the instance of a candidate or anyone of his agents, the mere fact that later on some of the signatories acted as his polling agents is not by itself enough to establish the consent of the candidate to the act of publication. The words used in sub-section (7) of Section 123 necessarily imply some efforts on the part of the candidate or his agent. Mere passive receipt of assistance is not contemplated by the section. In the case of S. Mehr Singh vs. Umrao Singh and another, reported in A.I.R. 1961, Punjab 244, it was observed that it was quite impossible to understand how mere general appeals to voters to support all Congress candidates or a particular Congress candidate can be regarded as interference or an attempt to interfere with the free exercise of an electoral right. It was also observed that the appeal must contain something of the nature of a threat or undesirable consequence which would result to the voters appealed to, in the event of their failure to accede to the appeal. Similarly, in the case of Jagdeo Singh Sidhanti vs. Pratap Singh Daulta and others, reported in 1965 S.C. 183, it was held that the use of the word "Om" on the flag does not symbolies religion or anything religious. In the case of Ram Dial vs. Sant Lal and others, reported in 1959 S.C. 855, it was found that the crucial words, like hukam of Shri Sat Guru Sacha Padsahah, etc., printed in very bold letters, conveyed the distinct impression to the large number of Namtharis, who were voters in the constituency, that it was a mandate from their spiritual guru who wielded great local influence amongst them, that it was their bounden duty under the strict orders of their religious leader, not only to cast their own vo

- 31. I may briefly refer to the oral evidence which has been given in this behalf by a number of witnesses who have been examined for the petitioner. They are P.W. 5 Md. Zainul Haque, P.W. 11, Jadunandan Thakur, P.W. 13, Moti Lal Purkasht, P.W. 17, Hari Mohan Mazumdar, P.W. 18, Swami Nath Tewari, P.W. 21, Mrinal Kanti Biswas and P.W. 22, Gauri Shanker Ram. The general trend of the evidence of these witnesses has been that these printed posters were pasted on the premises of the railway at Katihar as well as many other places. I do not think it beneficial to refer in detail to the statements of each of these witnesses separately. But I may point out that one of them, i.e., P.W. 21, Mrinal Kanti Biswas, has stated that he was working as the Joint Secretary of Alipurdwar Junction Union Branch of N.F. Railway Employees Union and he attended the meeting of the general body of N.F. Railway Employees Union held at Lumding (Assam) from 29th December, 1966, to 31st December, 1966. Accoding too him a resolution was passed in that meeting to support the Congress candidate can the posters like Exts. 4 and 4/a are in accordance with that resolution. He does not say a word whether anybody on behalf of respondent No. 4 much less the candidate himself was present at that meeting or on behalf of respondent No. 4 any sort of influence had been put on the Union to pass such resolution. In my opinion, therefore, when the entire evidence and circumstances are taken into consideration, it must be held that this allegation of assistance by Government servants or exercise of undue influence by printing such posters has not been established at all.
- 32. Issue No. 2.—This issue was only half heartedly pressed on behalf of respondent No. 4. In paragraph 2 of the written statement, it was alleged that the election petition is fit to be dismissed because of the non-compliance of the provisions of Sections 81, 82 and 117 of the Representation of the People Act, 1951. Under clause (c) of Section 83, an election petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure for the verification of pleadings. This election petition was presented to the Court on 14th April, 1967 and the period of limitation admittedly was to expire on 15th April, 1967. Sub-section (2) of Section 83 of the Act lays down that any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same under as the petition. On a perusal of the election petition, it appears that there was a signature of the petitioner at the end of the petition then there was also his verification and affidavit both dated 14th April, 1967. Annexure 'A' also appears to have been signed by him and the necessary verification given. So there does not appear to be any irregularity on this score in the filling of the election petition.

Moreover, as the law now stands, a non-compliance with the provision of Section 83 of the Act would not entail dismissal of the petition itself under Section 86 of the Act. It may also be pointed out that if there is any defect in the verification, the same can be rectified later on in accordance with the provision of the Code of Civil Procedure. In such circumstances, I am not ready to hold that the election petition should be dismissed on this ground and so this issue is decided in favour of the petitioner.

33. Issue No. 1.—The allegation concerning this issue has been made in paragraph 5 of the written statement. This matter appears to be rather serious. Under Section 81(3) of the Act every election petition shall be accompanied by as many copies thereof as there respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition. Section 86 further lays down that the High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117. Presently we are concerned only with section 83(3) of the Act. The provisions of Section 86 are apparently mandatory and no option or direction is left to the High Court functioning as Election Tribunal to waive this irregularity. In the case of Ch. Subbarao vs. Member, Election Tribunal, Hyderabad and others, reported in A.I.R. 1964 S.C. 1027, it was mentioned that an election petition is not to be equated to an election at law or in equity, but as the rights are purely the creature of statute, if the statute renders any particular requirement mandatory, the courts possess and can exercise no dispensing power to waive noncompliance. It was also observed therein that if however, there was a substantial compliance with the requirement of Section 81(3) the election petition was type written and should not be dismissed. In this case the election petition was type written and the copies which accompanied the petition were carbon copies of the type-script. The copies bore signatures in original of the Election Petition authenticating both the contents of the petition both the contents as well as the verification thereof. The petitioner, however, did not insert the words "true copy" before or above his signatures. It was then held that in the circumstances there had been substantial compliance with the requirement of section 81(3) of the Act. Learned Counsel for the petitioner has argued that in the present case, there is no indication as to what exactly was the defect which the office has pointed out. This matter is vague and indefinite. It is quite possible that the copies of the election petition might have been signed and attested also though the words "true copy" might not have been written. In view of the allegation made in the written statement it was the duty of the petitioner to have met this point in a satisfactory manner. When this argument was proceeding, learned Counsel for the respondent took out an envelop from the record of the case and took out the copy of the election petition and a summons which was addressed to respondent No. 4. This envelop has been marked Ext. F and the copy as Ext. G. It may be mentioned here that the copy of the election petition could not be served on respondent No. 4 in the ordinary way and resort had to be taken to order (5), Rule 20 of the Code of Civil Procedure. It is, therefore, clear that this envelop containing the election petition had been returned undelivered. In this copy, there is no signature of the petitioner though under sub-section (3) of Section 81 every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.

34. When this election petition was filed on 14th April, 1967 it was examined in the office and a note was given on 24th April, 1967 which is mentioned in the column meant for giving the office note of the order-sheet. Defect No. 2 as pointed out by the office is in the following words:

"Copies of election petition for the respondents not attested by the petitioner to be true copy (5 copies placed below)".

The office had also raised objection under Note 4 that along with the election petition as many copies thereof as there were respondents were not filed though they were filed subsequently within the period of limitation. Mr. Justice K. K. Dutta, who was then hearing this matter allowed defect Nos. 1, 2 and 3 to be removed within two weeks from 25th April, 1967, as prayed for. He overruled the objection raised by the office given in Note 4. It is, therefore, apparent that when the election petition was filed, the copies of the election petition meant for five respondents were not attested by the petitioner to be true copy and this defect was noted when the period of limitation had already expired. Order No. 3, dated 9th May, 1967 shows that the copies of the election petition containing defect No. 2 of the office note dated 24th April, 1967, was to be returned to the Advocate for being refiled by the 12th of May after removal of the defect. It has been argued on behalf of the petitioner by his learned Counsel, Mr. B. C. Ghosh, that this

office note should not be looked into and considered because it is not a public document and this ought to have been proved by the clerk who made these notes. In my opinion, this argument cannot be allowed to prevail for the reasons more than one. The note is a part of the order-sheet. Moreover, the Court has acted on this note as also learned Counsel for the petitioner because the order dated 25th April, 1967, clearly shows that he made a prayer for allowing him time to remove these defects. The matter did not rest there, but he was inactive for a number of days and only on 9th May, 1967 the copies of the election petition were handed over to him for the removal of the defects. He now cannot blame the office that the copies were returned to him for the removal of the defects and the reafter the period of limitation and so he was helpless. He had no business to file defective election petition just a day before the period of limitation. Under the law he was duty bound to present a correct election petition as required by Section 81(3) of the Act. So the note given by the office finds support from this typed copy of the election petition which was meant for service on respondent No. 4.

- 35. The High Court has framed certain rules for the disposal of election petitions and Rule 9(1) lays down that as soon as may be, after an election petition has been presented and registered, it shall be placed before the Judge for such crders as may be required to be passed under Section 86 of the Act. Sub-rule (2) further lays down that if the petition is not dismissed under Section 86(1) of the Act a summons shall be issued to the respondent, etc. In my opinion, therefore, this preliminary issue ought to have been decided first. Any way, when the order is appealable and there are several issues to be decided it is desirable to give the findings on all the issues so that there may not be a remand for non-determination of certain issues framed in the case.
- 36. On behalf of the petitioner, reliance was placed on the case of Murarka Radhey Shyam Ram Kumar vs. Roop Singh Rathore and others, reported in A.I.R. 1964 S.C. 1545. But in that case every page of the copy of the election petition was attested to be a true copy under the signature of the pentioner. In such circumstances, the election petition was not held to be liable for dismissal on this ground.
- 37. On behalf of respondent No. 4, Mr. K. P. Verma has drawn my attention to the two decisions of this very High Court. In the case of C.P. Sinha vs. I. P. Mahton, reported in I L.R. 30 Patna 1237, such a defect was accepted as fatal in view of Rule 7 of the Bihar District Board Election Petitions Rules, 1939. Similarly in case of Raja Ram Sahu vs. Brijrah Bahadur reported in I.L.R. 38 Patna 95, it was held that the Election Commissioner was not competent to allow amendment of such defect in the verification of the petition. It may be pointed out that a similar expression had been used in the Bihar Municipal Election and Election Petition Rules, when there was a violation of rules 63, 65, 66 or 67. Then in another case C.W.J.C. No. 237, of 1965 decided by a Division Bench of this Court on 12th December, 1966, it was held in connection with Gram Panchayat Election Rules that violation of a mandatory provision being verification and attestation of the election petition would entail dismissal thereof. So to summarise the law and the evidence on this point, I must hold that the election petition is fatally defective on account of the non-compliance of the mandatory provision of Section 81(3) of the Act.
- 38. Issues Nos. 4 and 5.—Both these issues can be conveniently taken up together as they are interrelated. The allegation made by the petitioner concerning irregularities in the counting of ballot papers is contained in paragraphs 17 to 41 of the election petition. A plain reading of these allegations would go to indicate that the petitioner has doubted the bona fide of the counting staff, as if they were in collusion with respondent No. 4 and they had a mind to see that he got more votes. It is, therefore, said that the counting staff committed many irregularities in favour of respondent No. 4. Section 100 of the Act deals with the grounds for declaring election to be void. In this case, we are concerned with sub-section (1) clause (d) (iii) of the Act which means that if the Court is of opinion that the result of the election, in so far as it concerns a returned candidate, has been materially affected by the improper reception refusal or rejection of any vote or the reception of any vote which is void, it shall declare the election of the returned candidate to be void. The allegations made by the petitioner were suitably denied on behalf of respondent No. 4 in his written statement in paragraphs 15 to 41.
- 39. On behalf of the petitioner, a number of witnesses were examined on this point and they are P.Ws. 3, 4, 5, 8, 9, 10, 14, 16; 19 and 20. On behalf of respondent No. 4 some witnesses were examined on this point. Their main trend of evidence is that there were no irregularities in the counting of votes though some of them admitted that the irregularities were done against the interest of respondent

No. 4 and not the petitioner. The witnesses who have spoken on this subject are R.Ws. 3, 4, 5, 6 and 12 (respondent No. 4 himself).

40. P.W. 3, Pitamber Singh, an ex-student, has spoken about these irregularities. But his evidence would show that these irregularities were done on 24th February, when the counting of Kathar constituency has not finished and meanwhile the counting of Korha constituency was taken up. P.W. 4, Anadi Sir.gh, had worked as a counting agent of the petitioner and he mentioned three sorts of irregularities committed in the counting of votes. According to him (i) if the seal mark was given on the symbol of 'hut' but if a portion went over the shaded portion, the ballot papers were rejected; (ii) if the stamp was given on the 'hut' symbol and due to folding a certain portion of the ink fell on other symbol or on other portion the same used to be rejected; and, (iii) the ballot papers containing marks on 'hut' were counted along with the ballot papers containing 'bullock' narks. It may be indicated here that the symbol of hut was given to the P.S.P. while a pair of bullocks with the yoke on was assigned to the Congress Party Towards the end of his examination-in-chlef, he clearly stated that greatest disturbance prevailed when the votes of Korha constituency were being counted on 24th February, though in his cross-examination he went a step further and said that he had retired some irregularities on 23rd February also. Of course, he could not give the details of the various categories of ballot papers which were illegally rejected against the petitioner or illegally accepted in favour of respondent No. 4. P.W. 5, Md. Zainul Heque, who was himself a candidate for the Bihar Assembly seat, has also spoken about these irregularities. In his cross-examination, he admitted that he saw the irregularities in counting of votes for the first time on 24th February 1967. P.W. 8, Ram Lagan Roy, a Trade Union worker admitted in paragraph 4 of his cross-examination that for the first time he noticed the irregularities in the counting of Korha constituency was taken up. The evidence of P.W. 10, Kāmal Lochan Maitra, a college student, wo

The last witness on this point is P.W. 20, Basu-deo Dutta. He was the counting agent of the petitioner and so he noticed the irregularities but his evidence would show that the irregularities were prominent on the 24th February when the Korha constituency was taken up. It is general evidence of these witnesses that on 24th February, respondent No. 4 along with 10 or 12 other persons forcibly entered into Pandal and created confusion and the officers present there had to speak on the mike requesting the crowd to clear away.

- 41. R.W. 3. Hansraj Saraf, has stated that he worked as the polling agent for respondent No. 4. On 22nd February, he worked as counting agent also and so long he was there he did not notice any irregularities. R.W. 4. Satya Narain Singh, who worked as counting agent of respondent No. 4 gave evidence to the effect that there was no confusion created in the counting Pandal on any date and that the counting was done peacefully rather many ballot papers which ought to have been counted in favour of respondent No. 4 were wrongly rejected and many ballot papers which ought to have been rejected were wrongly counted in favour of the petitioner. Similarly R.W. 5. Ram Bilas Roy, said that some ballot papers of respondent No. 4 have been wrongly rejected and similarly some ballot papers were wrongly counted in favour of the petitioner. He was working at Table No 11 inside the counting Pandal. To a court question he said that the Irregularities were prominently marked in respect of these two candidates only, namely the petitioner and respondent No. 4. R.W. 6. Harihar Prasad Keshari, who worked as counting agent of respondent No. 4 also spoke about these irregularities which were committed in favour of the petitioner and against respondent No. 1. R.W. 12 was, of course, respondent No. 4 himself and he has said that on the three dates of counting, he was at his Congress office at Katihar and he did not rush to the counting Pandal in the evening of 24th February.
- 42. Such being the position of evidence, I allowed scrutiny of ballot papers of Korha constituency only to find out whether there were astounding irregularities in the counting of votes as alleged on bhalf of the ptitioner. Scrutiny is the

term used to describe a review of the ballot papers following an order of the Court. A. Norman Schofield in his famous book 'Parliamentary Elections' (1959 third edition) has given a chart in between pages 364 and 365 of his book. This chart describes the impression on many ballot papers which should be taken as good ballot papers as well as bad ballot paper. The touchstone for judging the validity of a ballot paper is to read the mind of the voter as far as practicable and a mere technical defect should not be given too much importance in order to reject a ballot paper which otherwise clearly shows the intention of the voter to cast his vote in favour of a particular candidate.

43. It may be pointed out in this connection that the task of a petitioner to prove such an allegation concerning the irregularities in counting of votes is a very hard The word "the result of the election has been materially affected" indicate that the result should not be judged by the mere increase or decrease in the total number of votes secured by the returned candidate but by proof of the fact that the wasted votes would have been distributed in such a manner between the contesting candidates as would have brought the defeat of the returned candidate. This matter has to be proved and the onus of proving it lies upon the petitioner. Should the petitioner fail to adduce satisfactory evidence to enable the Court to find in his favour on this point, the inevitable result would be that the Tribunal would not interfere in his favour and would allow the election to stand—(vide case of Vashist Narain Sharma vs. Dev Chandra and others, reported in A.I.R. 1954 S.C. 513). As pointed out in the case of Jabar Singh vs. Genda Lal, reported in A.I.R. 1964 S.C. 1200, the scope of enquiry in a case falling under Section 100(1)(d)(iii) is to determine whether any votes have been improperly cast in favour of the returned candidate, or any votes have been improperly refused or rejected in regard to any other candidate. These are not only two matters which would be relevant in deciding whether the election of the returned candidate has been materially affected or not. At this enquiry, the onus is on the petitioner to show that by reason of the infirmities specified in Section 100(1)(d)(iii), the result of the returned candidates, election has been materially affected, and that, incidentally helps to determine the scope of the enquiry. There can be no doubt that this Election Tribunal, that is, this Court has jurisdiction to allow inspection apart from the provision of Order 11 of the Code of Civil Procedure and the power is clearly imof Elections 100(1)(d)(lii), 101, 102 of the Act and Rule 93 of the Conduct of Election Rules, 1981—(vide the case of Ram Sewak Yadav vs. Hussain Kamil Kidwai and others reported in A.I.R. 1964 S.C. 1249). An elaborate argument was advanced concerning these issues before me on behalf of both sides and to meet the end of justice and to have a fair deal to both sides, the inspection of ballot papers concerning Korha constituency was allowed just with a view to find out whether the allegation of the petitionr was prima facie correct. This inspection was a tedious process and continued for a number of days (from 2nd to 17th July, 1963 in the Court-room). Both sides picked out those ballot papers which, according to them, should have been counted either in favour of his client or rejected for his adversary. At the close of this scrutiny, learned counsel of both sides pre-pared their own charts. They also gave their own comment very shortly concerning different ballot papers. In order to being the entire matter on evidence. I allowed these charts to be placed on the record. The charts given on behalf of the petitioner has been marked as Ext. 11 and the two charts given on behalf of respondent No. 4 have been marked Exts. F/1 and F/2. I do not find any necessity to scrutinise further these charts because all the challenged ballot papers on behalf of either party had been scrutinised by myself and I gave my decision as to whether they should be accepted or rejected either in favour of this or that party. On behalf of the petitioner, a petition was filed to the effect that further scrutiny of all the ballot papers of all the remaining five constituencies should be allowed to and he should also be allowed to examine the marked copy of electoral roll to find out further defects, if any, in the counting of votes. I had to reject this prayer because I did not find any tangible result to come out because in the evidence it was clearly indicated that the irregularities were noticed for the first time on 24th February, when the counting of Korha constituency was taken up.

44. On behalf of respondent No. 4, it was argued before me that when the ballot papers have been examined under the order of the Court, the petitioner must confine his case only to those classes of ballot papers concerning which he had made allegation in his election petition. It some ballot papers fall outside the scope of allegations these should not be taken into consideration even if they have been rightly or wrongly rejected or accepted. In my opinion, the allegations are no general that they can also include other irregularities also beyond those specifically mentioned in the various paragraphs of the election petition. Any way, it may be pointed out that 84 ballot papers were picked out by the petitioner with the allegation that they had been wrongly counted in favour of respondent No. 4 and 11

ballot papers were also picked by the petitioner alleging that those had been wrongly rejected though they should have been counted in favour of the petitioner. In other words, the petitioner wanted that 84 ballot papers should be deducted from the total votes obtained by respondent No. 4 and secondly 11 ballot papers should be added to the total votes polled by the petitioner. On the other hand, on behalf of respondent No. 4 also curiously enough 84 ballot papers were taken out on the allegation that they had been wrongly counted in favour of the petitioner and 13 ballot papers were taken out on the allegation that they should have been accepted in favour of respondent No. 4, but had been wrongly rejected. About 300 ballot papers had been picked up on behalf of respondent No. 4 but this court did not allow them to be kept on the record because the counting in respect of those ballot papers has been rightly done. From the final result-sheet of the elction, Ext. B, it appears that in this constituency respondent No. 4 had secured 10960 votes whereas the petitioner had obtained 5807 votes, the difference being of 5153 votes. It has been rightly argued on behalf of respondent No. 4 that because of this wide margin in the result of the polling in Korha constituency, the petitioner felt that irregularities had been done in the counting of votes.

- 45. It may be further pointed out that the petitioner had polled 57803 votes in all and respondent No. 4, 58776 i.e., he held succeeded by a margin of 973 voters. It was pointed out on behalf of respondent No. 4 that even taking the worst view for the sake of argument, if the entire ballot papers numbering 95 picked out by the petitioner and 97 ballot papers picked out by respondent No. 4 were taken into consideration then also respondent No. 4 would be leading by a margin of 975 votes. So in any view of the matter, it can never be said that the result of the election had been materially affected as contemplated by Section 100(1)(d)(iii) of the Act. The contention of both sides would be clear by a reference to the schedule which they have filed after the close of the scrutiny of the ballot papers.
- 46. No doubt, the petitioner had filed a petition on 24th February, 1967, the last date of counting with a very vague and cryptic allegation. It simply stated that rules had not been followed in the counting of votes and many valid votes had been declared to be invalid. On behalf of respondent No. 4, the order passed on this petition has been filed and it is Ext. A. This order was passed by the Assistant Returning Officer, who was incharge of the counting of votes. He has elaborately dealt with the allegation and mis-apprehension which was present in the mind of the petitioner and found them to be baseless, unreasonable and frivolous and so the petition was rejected. Then again on 27th of February, 1967, the petitioner filed another petition giving out in detail the various allegations on this petition. An order was passed by the Returning Officer which is Ext. 2/a. The candidate was also heard as well as the election agent but the same was rejected as being vague and sweeping. In this connection the Returning Office had also taken the report of the Assistant Returning Officer, namely, the D.D.O. end the S.D.O. of Kathar.
- 47. In such circumstances, I am not ready to accept that there was any designed irregularity committed against the petitioner or in favour of respondent No. 4 at the time of counting of votes. Some margin has to be given for personal equation. Opinions may differ as to whether a particular disputed and doubtful ballot paper should be taken as valid or invalid. Some discrepancies are bound to occur in any election when the electorate is illiterate, unsofisticated and rustics. Moreover, if the same scrutiny is done before another officer, he may, perhaps, differ in arriving at the same conclusion in respect of a few ballot papers. The allegation of the petitioner was that the counting staff was favouring the Congress candidate in the counting of votes and this matter has not been established by the evidence or the result of the counting of votes. So I would decide both these issues against the petitioner.
- 48. Issue No. 7.—In view of the findings recorded concerning various issues of this case, the election of respondent No. 4 cannot be declared to be void. Practically, all the allegations against him have failed. In such circumstances, the petitioner is not entitled to either of the reliefs claimed by him i.e., he is not entitled to the declaration that the election of respondent No. 4 is void nor that he has been duly elected as the Parliamentary candidate in the last election. The second prayer cannot be allowed in view of the provision of Section 101 of the Act. This election case is, therefore, dismissed with costs.
- 49. As regards the cost, it may be pointed out that the hearing of this case-lasted for 19 days and the counting of ballot papers continued for 12 days. So in all, there were 31 sittings of the Court for the disposal of this case. Therefore, respondent No. 4 is entitled to costs of this case and hearing fee is assessed at: Rs. 2.500/- because on most of the days only junior Counsel conducted the case.

50. The recriminatory petition having not been pressed and no evidence adduced on behalf of respondent No. 4 in respect thereof, the same is dismissed without cost as such. A substance of this decision shall be sent forthwith to the Riection Commission and the Speaker of Lok Sabha, New Delhi and an authenticated copy or this judgment shall be sent to the Election Commission as soon as possible.

PATANA HIGH COURT,

[No. 82/B.R./25/67.] Sd./- M. P. VERMA

The 29th July, 1968.

New Delhi, the 3rd October 1968

S.O. 3625.—In pursuance of clause (b) of sub-section (2) of section 116C of the Representation of the People Act, 1951 (43 of 1951) the Election Commission hereby publishes the Order of the Supreme Court of India, pronounced on the 12th August, 1968, on an appeal from the judgment and order dated the 10th October, 1967 of the High Court of Judicature for Rajasthan at Jodhpur in election petition No. 13 of 1967.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 1801 (NCE) of 1967

Mohan Raj-

Appellant

Versus

Surendra Kumar Taparia and Ors.—

Respondents.

JUDGMENT

HIDAYATULLAH, C. J.—This is an appeal by the unsuccessful election petitioner against the judgment of the High Court of Rajasthan dated October 10, 1967. The election petition was filed to challenge the election of the first respondent at the Pali Parliamentary Constituency in the Fourth General Elections. At that election seven nomination papers were filed. Two of the candidates withdrew. Amongst them was one R. D. Periwal. There were thus only five contesting candidates. Of these, the first respondent obtained 1,47,509 votes. His closest rival respondent No. 2 (now deceased) obtained 1,21,438 votes. The remaining candidates got a little over thirty thousand votes between them.

The election petitioner (appellant here) is an elector of Pali. In his petition he joined the returned candidate and the other four contesting candidates. Many grounds were urged in the petition. The first ground was that the returned candidate or his election agent prompted hatred against the Congress, appealed to religion and sent persons dressed as Sadhus preaching that if Congress was returned to power there would be go-hatya and took pledges or oaths from the voters. The second was that the returned candidate and his election agent were guilty of suppression of true expenses and filed false returns. The third ground was that the candidate or his election agent obtained the services of Government servants in furthering the election of the returned candidate. The last ground was that the returned candidate and his election agent and other persons with the consent of the returned candidate paid and offered bribes between January 13, 1967 to February 14, 1967 to induce the electors directly or indirectly to vote for the returned candidate.

The petition was scrutinised and was found to be in order. The returned candidate entered appearance on May 15, 1967 and filed a written statement a month later. He took the objection that the allegations were vague and lacking in necessary particulars. The High Court thereupon ordered better and fuller particulars on July 2, 1967. The election petitioner was asked to file an application for amendment and a draft of the amended petition. This was done but there were objections.

The objections were decided on August 1, 1967. Some of the allegations of corrupt practices were deleted for want of sufficient particulars. The other amendments were allowed. Para 16 of the petition in the amended form read as follows:

"That the respondent No. 1 and his election agents Messrs, R. D. Periwal and Shri Lunia and other persons with the consent of the respondent No. 1 paid and offered bribes between 13th January, 1967 to 20th February, 1967 with the object of inducing directly or indirectly electors to vote for respondent No. 1. The following amongst other are some of the instances."

(Instances were mentioned).

•On August 24, 1967 written statement was filed in which an objection was taken that as •R. D. Periwal, against whom corrupt practices had been alleged, was not joined as a party,

the petition was liable to be dismissed under s. 86(1) of the Representation of the People Act. This preliminary objection was heard by the Judge on August 29, 1967. Same day an application for amendment of the election petition was filed. It was stated in the election petition that the election petitioner had gathered the impression that Inder Kumar Lunia was the election agent, from a telegram sent by Lunia; that the name of R. D. Periwal in paragraph 16 crept in because of 'uncertainty and inadvertance' and the reference to election agent 'came to be made in an omnibus manner'. What this statement means is not very clear. However, it was pointed out that there was no intention to make any allegation against R. D. Periwal but two or three allegations of corrupt practice were imputed to Lunia. A request was, therefore, made that the reference to 'election agent' in all the paragraphs charging corrupt practices should be deleted and it was specifically prayed that the name of R. D. Periwal in paragraph 16 should also be deleted. In short, it was intended to withdraw allegations against Periwal. This application was not separately considered by the High Court but the election petition itself was dismissed under s. 86(1) since Periwal, who was a duly nominated candidate (who withdrew later), had to be compulsorily joined under s. 82(b) if allegations of corrupt practice against him were made.

It will be noticed, therefore, that in the original election petition allegations were made against the returned candidate or his election agent. Two of the allegations of corrupt practice were against the returned candidate and his election agent. They were charged of taking assistance of Government servants and bribing voters. In connection with the bribery charge, no names were mentioned. In his reply to the petition the returned candidate denied the charges in respect of himself and his election agents 'using the plural'. In the amended petition, in one place, the returned candidate and his election agent were mentioned with Lunia as the election agent and in another, which we have quoted earlier, two election agents. Lunia and Periwal were mentioned by name. The returned candidate in reply denied that Lunia was the election agent. In the second application for amendment filed on August 29, 1967 attempt was made to withdraw allegations against the election agent and to delete all references to Periwal. This was resisted and it was stated that Periwal was the only election agent appointed by the returned candidate. The question is whether the election petition was liable to be dismissed for not joining Periwal who was a duly nominated candidate and against whom charges of corrupt practice were made?

Mr. Hazarnavis contends that the amendments were made in answer to the order for better and fuller particulars. He submits that the original petition did not name Periwal although the amended petition did and the High Court need not have mixed up the two petitions to find out whether Periwal had to be joined or not. According to him, the original petition could not be dismissed since it did not name Periwal and the amended petition only supplying particulars as required by the Judge. He submits that even in giving instances of bribery in paragraph 16, although the name of Periwal was mentioned in the opening part, no instance was cited with Periwal's name although other names were Therefore, he submits that Periwal was not in the mind of the election petitioner at all and the mention of Periwal was merely an error. In reply it is pointed out that all allegations were supported by affidavits and that all references to the election agert and allegations against him were affirmed on personal knowledge by the election petitioner. In the original petition no names were given but when better particulars were ordered a categoric reference to the election agents was made by referring to Lunia and Periwal and this was again affirmed on personal knowledge by the petitioner. It is pointed out that in the list of workers of the returned candidate Periwal was shown as the election agent and the returned candidate affirms that Periwal was the only election agent. It is shown by way of illustration that the return of election expenses was filed by Periwal as the election agent and the allegations of corrupt practice in respect of the election expenses related to Periwal.

On examining the entire record with the assistance of counsel we are satisfied that Periwal was always meant when the reference was to an election agent and this was more clearly specified when the amended petition was filed. Therefore, the attempt was first to name him and now to withdraw his name to save the petition. This, in our opinion, could not be done and the High Court was right in dismissing the election petition and disallowing the last amendment by implication, to give our reasons briefly:

It is necessary to read the Act backwards from s. 86(1). That section reads:

"86. Trial of election petitions .---

(1) The High Court shall dismiss on election petition which does not comply with the provisions of section 81 or section 82 or section 117.

This is a peremptory provision and admits of an exception. The Court must enforce it strictly if there is a non-compliance with the requirements of s. 82 among others. In this connection we have to read s, 82(b) which reads as follows:

- "82. Parties to the petition.-
 - A petitioner shall join as respondents to his petition.—
 - (a) * * *
 - (b) any other candidate against whom allegations of any corrupt practice are: made in the petition."

This makes it incumbent that any candidate against whom a charge of corrupt practice is made must be joined as a party. Who is a candidate is laid down in s. 79(b). That provision reads as follows:

- "79. Definitions.—In this Part and in Part VII unless the context otherwise requires...
 - (a) * * *
 - (b) 'candidate' means a person who has been or claims to have been duly nominated as a candidate at any election, and any such persons shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate."

Since Periwal was a candidate who was duly nominated at an election he would be a candidate within the meaning assigned to that word by this definition. The question raised is that Periwal was not a candidate at the election since he had withdrawn and, in any case, this definition need not to be read in s. 82(b) which should be limited to contesting candidates. Under s. 37 a candidate may withdraw and once the notice of withdrawal is given it is final. After the date of withdrawal passes a list of contesting candidates is 'drawn up under s. 38. It is submitted that s. 82(b) should be limited to the contesting candidates. It is also submitted that when Ss, 100 and 123 speak of a candidate they refer to a candidate whose candidature subsists to the time of the election, that is to say, after the time for withdrawal passes. The petition under s. 83(1)(b), it is said can se out particulars of corrupt practices "against parties" and that would include contesting candidates, their election and other agents and persons other than candidates and their agents. It is submitted that a candidate who has withdrawn is no longer a candidate and hence cannot be a party.

The argument cannot be entertained. These questions have already been considered by this Court on more than one occasion. They were first considered in K. Kamaraja Nadar v. Kunju Thevar and others(1) but that ruling may not strictly be appropriate since it was based on s. 55A(2) which is now repealed. However, other cases (Amin Leil v. Hunna Mal² and Har Swarup & Ors. v. Bril Bhushan Saran & Ors.)³ consider this point. It is there laid down that a candidate who is duly nominated continues to be a candidate for purposes of s. 82(b) in spite of withdrawal. This really decides the question which has been mooted before us. A very detailed examination of the same question is to be found is Chaturbhuj v. Election Tribunal Kanpur & Ors.⁴ In that case our brother Bhargava (M. L. Chaturvedi J. concurring) has examined in the Allahabad High Court these provisions from every angle which are presented to us and has adequately answered all the arguments.

It is argued that the Civil Procedure Code applies and 0.6 r. 17 and 0.1 r. 10 enable the High Court respectively to order amendment of a petition and to strike out parties. It is submitted, therefore, that both these powers could be exercised in this case by ordering deletion of refences to Periwal. This argument cannot be tecepted. No doubt the power of amendment is preserved to the court and 0.1 r. 10 enables the court to strike out parties but the court cannot use 0.6 r. 17 or 0.1 r. 10 to avoid the consequences of non-joinder for which a special provision is to be found in the Act. The court can order an amendment and even strike out a party who is not necessary. But when the Act makes a person a necessary party and provides that the petition shall be dismissed if such a party is not joined, the power of amendment or to strike out parties cannot be used at all. The Civil Procedure Code applies subject to the provisions of the Representation of People Act and any rules made thereunder (see s. 87). When the Act enjoins the penalty of dismissal of the petition for non-joinder of a party the provisions of the Civil Procedure Code cannot be used as curative means to save the petition.

^{(1) 1959} SCR 583.

^{(2) 1965 (1)} SCR 393.

^{(8) 1967 (1)} SCR 342.

^{(4) (1958) 15} E.L.R. 301.

An attempt is made to distinguish the cases cited by us on the ground that now the provisions of ss. 4 to 25 of the Indian Limitation Act are applicable to election petitions and the amendment of the petition and joining of parties can take place at any time. It is submitted that now the cases must be decided under the amended law. We need not go into this matter. It is doubtful whether these provisions of the Limitation Act apply at all. The petationer has not asked to join corrupt practice against him. This cannot be permitted since it will defeat the provisions of s. 86(1). Every election petition can be saved by amendment in this way but that is not the policy of the law. dismissal is peremptory and the law does not admit of any other approach. It is significant that in Amin Lal v Hunna Mal, although the matter was not gone into from this angle it was said that the amendment for better particulars was not intended to enable the election petitioner to remove the defect in presentation or in the joinder of parties. Sheopat Singh v. Ram Pratap⁵, since the facts were assumed, cannot be said to record any decision.

Lastly, it is submitted that Periwal was being charged in his character as an election agent and not as a candidate. This submission runs counter to the amendment petition which says that he was not an election agent and therefore he was really charged in his capacity as an individual and as he was a duly nominated candidate he had to be joined. The argument really contradicts the last amendment petition and cannot be entertained.

For the reasons above stated it must be held that the decision of the High Court under appeal was correct. The appeal fails and will be dismissed with costs.

Sd./-M. HIDAYATULLAH, C. J.

Sd./- G. K. MITTER, J.

New Delhi: August 12, 1968.

> [No. 82/13/67(RJ).] By Order, A. N. SEN, Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 8th October 1968

S.O. 3626.—In exercise of the powers conferred by sub-section (1) of section 492 of the Code of Criminal Procedure, 1898 (5 of 1898), the Central Government hereby appoints Shri G. Gopalaswamy, Advocate, Madras, as a Public Prosecutor for the conduct of case RC No. 11/E/66-Madras, against S. Haji Mohammad Ismail Sahib of Madras and others in the original, appellate and revisional courts.

[No. 225/44/68-AVD.II.]

A. P. VEERA RAGHAVAN, Dy. Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 3rd October 1968

S.O. 3627 .- In pursuance of clause (a) of Section 2 of the Diplomatic and Consular Officers (Oaths & Fees) Act, 1948, the Central Government hereby authorise Shri K. K. Mukerji, Assistant in the Consulate of India, Basrah, to perform the duties of a Consular Agent, with immediate effect, until further orders.

[No. T.4330/1/68.]

P. C. BHATTACHARJEE, Under Secy.

[Part II-

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 5th October 1968

S.O. 3628.—Statement of the Affairs of the Reserve Bank of India as on the 20th September, 1968.

BANKING DEPARTMENT

	I	JABII.	ITIE	S			Rs.			ASS	ETS						Rs.
Capital paid up		•				-	5,00,00,000	Notes .			•						18,76,70, 00
								Rupee Coin						•			3,65,00
Reserve Fund	•	٠	•	•	•	•	80,00,00,000	Small Coin	٠	•	•		•	•		•	4,34,00
; Nama a a	.	0-1	. a					Bills Purchas	ed an	d Dis	ount	ed					
National Agricu Operationa) I	und und	Crea	it (L	ong	Term		143,00,00,000	(a) Intern	pal								••
								(b) Exter	nel								
								(c) Gove	mmen	t Tre	tenta	ВіДя		٠	•		178,10,00,00
National Agricults	ıral Cı	edit (S	tabilisa	tion)	Fund		33,00,00,000	Balances Held	Abro	d*			s				124,53,82,00
								Investments**									232,43,70,00
National Industria Fund	Credi	t (Los	g Teri	ш Ор	eration	es) •	55,00,00,000	Lowns and Ad	Vince	s to :	ı -						
								(i) Centra	ul Gor	reenin:	ent						
								(n) State	Gove	ern mer	a n @	ı					27, 77, 22 ,00

eposits i		Loans and Advances to take (i) Scheduled Commercial Banks†	2,000
(a) Government		(#) State Co-operative Banks†† 189,33,80	0,000
•		(##) Others	
(i) Central Government : 1 1	76,16,05 ,000	Losus, Advances and Investments from National Agricul- tural Credit (Long Term Operations) Funda—	
(ii) State Governments	11,50,54,000	(a) Loans and Advances to:— (f) State Governments	8,000
		(ii) State Co-operative Banks 15,43,6:	2,000
(b) Banka		(iii) Central Land Mortgage Banks	
		(b) Investment in Central Land Mortgage Bank Debentures 8,53,6	1,000
(f) Scheduled Commercial Banks	141,53,35,000	Loans and Advances from National Agricultural Credit (Stabilisation) Fund:—	
(fi) Scheduled State Co-operative Banks .	6,36,09,000	Louns and Advances to State Co-operative Banks 5,35,5	(0 ,00 (
(iii) Non-Scheduled State Co-operative Banks	67,87,000	Loans, Advances and Investments from National Industrial	•
(fe) Other Banks	11,70,000	Credit (Long Term Operations) Fund:-	
·		(a) Loans and Advances to the Development Bank 6,08,9	2,000
(c) Others	322,36,49,0 00	(b) Investment in bonds/debentures issued by the Development Bank	
Bills Payable	22,16,11,000	Other Assets 33,71,5	9,000
Other Liabilities	29,41,99,000		
Rupees .	926,30,19,000	Rupees 926,30,1	19,000

^{*}Includes Cash, Fixed Deposits and Short-term Securities.

Dated the 25th day of September, 1968.

^{**}Recinding investments from the National Agricultural Gredit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

[@]Rzcheding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments,

[†]Includes Rs. 36,18,38,000 advanced to scheduled commercial banks against usance bills under section 17(4) (c) of the Reserve Bank of India Act.

[†] Encluding Louis and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabili - sation) Fund.

LIABILITIES	Ra.	Rs.	ASSETS	Ra.	Rs.
Notes held in the Banking Depart-			Gold Coin and Bullion:-		
ment Notes in Circulation	18,76,70,000 3191,70,32,000		(a) Held in India	115,89,25,000	
Total Notes issued .		3210,47,02,000	Roreign Securities	206,42,00,000	
			Ropee Coin Government of India Rupee Securities Internal Bills of Exchange and other commercial paper		322,31,2 85,11,0 2803,04,6
POTAL LIABILITIES		3210,47,02,000	TOTAL ASSETS		3210,47,0

[N . F. 3(3)-BC/68.]

New Delhi, the 8th October 1968 8.63. 3629.—Statement of the Affairs of the Reserve Bank of India, as on the 27th September, 1968 HANKING DEPARTMENT

			(144	APPLIES TABLEMENT AT									
LIABILITIES			Rs.		ASSE	TS							Rs.
Capital Paid Up .	•		5,00,00,000	Notes					•				2 4, 04, 7 1 ,00 0
				Rupee Coin .									11,71,000
Reserve Fund .		•	80,00,00,000	Small Coin				,					3,28 ,000
National Agricultural Credit Term Operations) Fund	(Long	;	143,90,00 ,000	Bills Purchased and (a) Internal	Dirco	uMed	:—						
National Agricultural Credit				(b) External (c) Governmen	t Treas	ury E	Sults	•					182,44,09, 00 0
(Stabilisation) Fund		•	33,00,00,000	Balances Held Abros	d*		•					•	123,76,83,000
National Industrial Credit (Lor Operations) Fund	g Ten	Ď	55,00,00,000	Investments**				•					231,74,71,000
				Logns and Advances	0 1								
				(i) Central (ii) State Gov			•	•	•.	•			 42,58,64,000
Deposits-				Loans and Advances	to 1 —								
				(1) Scheduled	Comm	ercia)	Bard	s†		•		•	68,64,76,000
(a) Government				(II) State Co-t	perativ	re Bar	ies††			٠,	٠		194,89,94,000
(i) Central Gavernment			102,28,22,000	(#f) Others		•				•	•		3,80,67, 000

LIABILITIES	Rs.	ASSETS	Rs.	· ·
		Loans, Advances and Investments from National Credit (Long Term Operations) Fund—	Agricultural	·
(ii) State Governments	7,82,33,000	(a) Loans and Advances to 1—		
		(f) State Governments		31,62,86,000
		(ii) State Co-operative Banks		15,35,91,000
		(iii) Central Land Mortgage Banks		
(b) Banka—		(b) Investment in Central Land Mortgage Ba Debentures	nk 	8,53,61,000
(i) Scheduled Commercial Banks .	153,30,53, 00 0	Loans and Advances from National Agricultural (Stabilization) Fund—	Credit	
(ii) Scheduled St#te Co-Oper#tive Banks	6,71,99,000	Louns and Advances to State Co-operative Be	oks .	5, 35,49 ,000
(#) Non-Scheduled State Co-operative Banks	66,41,000			
(ke) Other Banks	17,43,000	Loans, Advances and Investments from Nations Credit (Long Term Operations) Fund—	l Industrial	
(c) Others	321,96,16,000	(a) Loans and Advances to the Developme	ent Bank	6,18,23,000
Bills payable	31,40,11,000	(b) Investment in bonds/debentures issue Development Bank	ed by the	
Other Liabilities	34,21,01,000	Other Assess		35, 38, 75,00 0
Rupees .	974,54,19,000	R	inees .	974,54,19,000

^{*}Includes Cash, Fixed Deposits and Short-term Securities.

^{**}Hackuling Investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

[@] Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary over-drafts to State Governments.

[†]Includes Rs. 36,63,98,000 advanced to scheduled commercial banks against usance bills under Section [17(4)(c) of the Reserve Bank of India Act, ††Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 27th day of September, 1968 ISSUE DEPARTMENT

LIABILITIES			Rs.	Rs.	ASSETS					Rs.	Rs.
Notes held in the Bankin ment	g De	part-	24,04,71,000		Gold Coin and Bullic (a) Held in India.			•	,	115, 8 9,25,000	
Notes in circulation .			31,86,67,31,000		(b) Held outside In-	dia	•	•	•	••	
Total Notes issued .				3210,72,02,000	Foreign Securities				•	206,42,00,000	
					נ	[OTAI	L	•			322,31,25,00
					Rupee Coin Government of India Internal Bills of Ex	Rup	ee S	ecurit ind o	ies ther		85,36,09,00 2803,04,68,00
					commercial paper		•	•	•		
Total Liabilities .				3210,72,02,000	Total Assets		•	•	•		3210,72,02,00
el the 3rd day of Octobe	., 196	8.								Dy.	V. Adarkar, Governor. F. 3(3)-BC/68.

New Delhi, the 9th October 1968]

S.O. 3630.—Statement of the Affairs of the Reserve Bank of India, as on the 4th October, 1968.

BANKING DEPARTMENT

LIABILITIES	Rs.	A	SSETS					Rs.
Capital Paid up	. 5,00,00,000	Notes						20,17,86,000
		Rupee Coin	·		-			3,02,000
Reserve Fund	. 80,00,00,000	Small Coin .			-	•		3,39,000
		Bills Purchased and	Discount	ed:—				
Vitional Agricultural Credit (Long term operations) Fund	. 143,00,00,000	(a) Internal					•	
		(b) External				•		
		(c) Governm	ent Treas	sury Bil	ls .	•		223,68,93,000
Jational Agricultural Credit (Stabilisation) Fund	33,00,00,000	Balances Held Abroad	i* .			-		125,30,43,000
		Investments**			-			126,08,26,000
lational Industrial Credit (Long Term Operations) Fund .	55,00,00,000	Loans and Advances	to :—					
		(i) Central (Governme	nt	•			
		(#) State Go	vernments	· @			-	72,80,89,000
Deposits:		Loans and Advance	es to :—					
(a) Government		(i) Scheduled	Commer	cial Ban	ks†			39,57,57,000
		(ii) State Co-	operative	Banks†				197,70,94,000
		(iii) Others .						3,98,53,000

Loans, Advances and Investments from National Agricultural Credit (Long Term Operations) Fund:

	(ii)	State	Gove	tume.	nit 3						5,23,82,000	(a) Loans and Advances to :-
(ē	b) Bank	Ks:—										(i) State Governments
												(ii) State Co-operative Banks
-	(i) S	chedul	ed C	mm	ercial	Banks	i .				152,27,14,000	(##) Central Land Mortgage Banks
	(#) S	chedul	led St	ate C	ю-оре	rative	Bank	s.	-		5,84,59,000	(b) Investment in Central Land Mortgage Bank Debentures Loans and Advances from National Agricultural Credit (Stabilisation)Fund
.1	(#) N	on-Şct	jeduk	d St	ate Co	-oper	ative I	Bank	s .		66,41,000	Loans and Advances to State Co-operative Banks 5,3 4,30,000
	(šv) O	ther I	Ban k s	•				•		•	16,74,000	Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund:—
(c)	Other	s									325,29,74,000	(a) Loans and Advances to the Development Bank 6,18,23,000
Bilk	Payabl	le			•	•		-	٠		19,49,36,000	(b) Investment in bonds/debentures issued by the Development Bank
Other	Liebil	ities									33,20,73,000	Other Assets
								1	Rupees		911,84,01,000	Rupees . 911,84,01,000

^{*}Includes Cash, Fixed Deposits and Short-term Securities.

Dated the 9th day of October, 1968.

^{**}Excluding Investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

[@]Excluding loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

tIncludes Rs. 9,86,78,000 advanced to scheduled commercial banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

^{††}Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 4th day of October, 1968.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS		Rs.	Rs.
Notes held in the Banking Department	20,17,86,000		Gold Coin and Bullion :-			
Notes in circulation	. 3228,48,72,000	••	(a) Held in India (b) Held outside India		115,89,25,000	
TOTAL Notes issued		3248,66,58,000	Foreign Securities		206,42,00,000	• •
			Тотац			322,31,25,000
			Rupee Coin		•	83,30,65,000
			Government of India Rupee Secur	rities .		2843,04,68,000
			Internal Bills of Exchange and other mercial paper			• •
Total Liabilities .		3248,66,58,000	TOTAL ASSETS			3248,66,58,000
Dated the 9th day of October, 1968.		 _			B, N	. Adarkar,
			_		Dy	. Governor.
					[No.	F.3(3)-BC/68.

New Delhi, the 9th October 1968

S.O. 3631.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 9 of the said Act shall not apply to the Vijaya Bank Ltd., Mangalore, in respect of the immovable property (Plot of land bearing T.S. No. 832) held by it at Mangalore (South Kanara), till the 5th October, 1969.

[No. F.15(25)-BC/68.]

V. SWAMINATHAN, Under Secy.

(Department of Revenue and Insurance)

CUSTOMS

New Delhi, the 19th October 1968

S.O. 3632.—In exercise of the powers conferred by sub-section (1) of section 4 of the Customs Act, 1962 (52 of 1962), the Central Government hereby appoints Sarvashri J. P. Pradhan, S. B. Patil and K. C. Lahiri, Superintendents Class I in the Bombay Central Excise Collectorate, also to exercise the powers and discharge the duties of Assistant Collectors of Customs, within the jurisdiction of the Collector of Customs, Bombay.

[No. 141/F.No.22/4/68-Cus.IV.]

J. DATTA, Dy. Secy,

CENTRAL BOARD OF DIRECT TAXES

INCOME TAX

New Delhi, the 4th October 1968

S.O. 1633.—In exercise of the powers conferred by sub-section (1) of section 122 of the Incometax Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf and in supersession of all previous notifications in this regard, the Central Board of Direct Taxes hereby directs that the Appellate Assistant Commissioners of Incometax of the Ranges specified in column 1 of the Schedule below shall perform their functions in respect of all persons and incomes assessed to incometax or supertax in the Incometax Circles, Wards and Districts specified in the corresponding entry in column 2 thereof:

SCHEDULE

Range	Income tax Circles, Wards and Districts
Brnakulam .	 Incometax Circle, Alwaye. Incometax Circle, Ernakulam. Companies Circle, Ernakulam. Salaries Circle, Ernakulam. Incometax Circle, Mattanchery. Companies Circle, Trivandrum. Incometax Circle, Alleppey. Survey Circle, Ernakulam (since abolished) in respect of persons who have their principal place of business in or reside within the jurisdiction of the I. T. Circles metioned above. Central Circle, Ernakulam. state Duty- cum-I. T. Circle, Ernakulam.

<u> </u>					ź
Range I; Calleut	٠			•	 Companies Circle, Calicut. Incometax Circle, Cannanore. Special Survey Circle, Ernakulam (since abolished) in respect of persons who have their principal place of business in or reside within the jurisdiction of the Incometax Circles mentioned above.
Kange II, Calleut	:	•	•	•	 Incometax Circle, Calicut. Special Survey Circle, Ernakulam (since abolished) in respect of persons who have their principal place of business in or reside within the jurisdiction of the Incometax Circles mentioned above.
Trichur .	•	•	•	٠	 Incometax Circle, Trichur. Incometax Circle, Paighat. Special Survey Circle, Etnakulam (since abolished) in respect of persons who have their principal place of business iff or reside within the jurisdiction of the Incometax Circles mentioned above. Central Circle, Trichur (since abolished).
Trivandrüm .	•	•	٠	•	 Incometax Circle, Trivandrum. Salary Circle, Trivandrum. Incometax Circle, Quilon. Incometax Circle, Kottayam. Incometax Circle, Triuvalla. Special Survey Circle, Ernakulam (since abolished) in respect of persons who have their principal place of business in or reside within the jurisdiction of the Incometax Circles mentioned above. Special Investigation Circles, Trivandrum (since abolished).

Where an Incometax Circle, Ward or District or part thereof stands transferred by this notification from one Range to another Range, appeals arising out of assessments made in that Incometax Circle, Ward or District or part thereof and pending immediately before the date of this notification before the Appellate Assistant Commissioner of Range from whom that Incometax Circle, Ward or District or part thereof is transferred shall, from the date this notification shall take effect, be transferred and dealt with by the Appellate Assistant Commissioner of the Range to whom the said Circle, Ward or District or part thereof is transferred.

This notification shall take effect from 7th October, 1968.

Explanatory Note

The amendments have become necessary on account of the creation of two new A.A.C's. ranges known as Range I, Calicut and Range II, Calicut.

(The above note does not form part of the notification, but is intended to be merely clarificatory.)
[No. 92 (F.No. 50/1/68-IT.]

New Delhi, the 5th October 1968

S.O. 3634—In exercise of the powers conferred by sub-section (1) of section 122 of the Incometax Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf and in supersession of all the previous notifications in this regard, the Central Board of Direct Taxes, hereby directs that the Appellate Assistant Commissioners of Incometax of the Ranges specified in column 1 of the Schedule below, shall perform their functions in respect of all persons and incomes assessed to Incometax or Supertax in the Incometax Circles, Wards and Districts specified in the corresponding entry in column 2 thereof:

SCHEDULE

Ruńge r	Income tax Circles, Wards and Districts
Poons Range I, Poons	1. B-Ward, Poona. 2. D-Ward, Poona. 3. G-Ward, Poona.

I

2

	 Addl. G-Ward, Poona. Central Circle, Poona. Wealthtax Circle, Poona. Special Investigation Circle, Poona. K-Ward, Poona. Collection I, Poona. A-Ward, Ahmednagar. B-Ward, Ahmednagar. A-Ward, Panvel. B-Ward, Panvel. C-Ward, Panvel.
Poona Range II, Poona	. I. Companies Circle, Poona. 2. Addl. Companies Circle, Poona. 3. Special Survey Circle, Poona. 4. Addl. Special Survey Circle, Poona. 5. A-Ward, Poona. 6. C-Ward, Poona. 7. Addl. C-Ward, Poona. 8. E-Ward, Poona. 9. Addl. E-Ward, Poona. 10. F-Ward, Poona. 11. Addl. F-Ward, Poona. 12. H-Ward, Poona. 13. J-Ward, Poona. 14. L-Ward, Poona. 15. Salaries and Refund Circle, Poona. 16. GHQ Incometax Circle, Poona. 17. Collection II, Poona. 18. A-Ward, Satara. 19. B-Ward, Satara.
Kolhapur Range, Kolhapur .	 I. A-Ward, Kolhapur, B-Ward, Kolhapur. C-Ward, Kolhapur. D-Ward, Kolhapur. E-Ward, Kolhapur. F-Ward, Kolhapur. Ratnagiri.
Nasik Range, Nasik	. I. A-Ward, Nasik. 2. B-Ward, Nasik. 3. C-Ward, Nasik. 4. D-Ward, Nasik. 5. E-Ward, Nasik. 6. A-Ward, Thana. 7. Addl. A-Ward, Thana. 8. B-Ward, Thana. 9. C-Ward, Thana. 10. D-Ward, Thana. 11. E-Ward, Thana. 12. F-Ward, Thana. 13. Special Survey Circle, Thana. 14. Addl. Special Survey Circle, Thana. 15. Recovery Circle, Thana. 16. Palghar. 17. A-Ward, Malegaon. 18. B-Ward, Malegaon.
Sholapur Range, Sholapur	 A-Ward, Sholapur. B-Ward, Sholapur. C-Ward, Sholapur. D-Ward, Sholapur. A-Ward, Sangli. B-Ward, Sangli. C-Ward, Sangli. Latur.

I	2
Jalgaon Range, Jalgaon	 A-Ward, Jalgaon. E-Ward, Jalgaon. C-Ward, Jalgaon. A-Ward, Dhulia. B-Ward, Dhulia.
Amravati Range, Amravati .	 A-Ward, Amravati. B-Ward, Amravati. C-Ward, Amravati. D-Ward, Amravati.
_Akola Range I, Akola	 Special Investigation Circle, Akola. A-Ward, Akola. B-Ward, Akola. A-Ward, Yeotmal. B-Ward, Yeotmal. A-Ward, Wardha. B-Ward, Wardha. C-Ward, Wardha.
.Akola Range II, Akola .	1. Central Circle, Akola. 2 C-Ward, Akola. 3. Khamgaon.
_Aurangabad Range, Aurangabad	 I. A-Ward, Aurangabad. B-Ward, Aurangabad. C-Ward, Aurangabad. A-Ward, Nanded. B-Ward, Nanded.

Where an Incometax Circle, Ward or District or part thereof stands transferred by that notification from one range to another range, appeals arising out of assessments made in this Incometax Circle Ward or District or part thereof and pending immediately before the date of this notification before the Appellate Assistant Commissioner of Incometax of the range from whom that Incometax Circle, Ward or District or part thereof is transferred shall, from the date this notification shall take effect, be transferred to and dealt with by the Appellate Assistant Commissioner of the Range to whom the said Circle, Ward or District or part thereof is transferred.

This notification shall take effect from 7th October, 1968.

Explanatory Note

The amendments have become necessary on account of the creation of two new Range vis., Akola Range II and Aurangabad Range in the charge of the Commission Poons.

(Taus note does not form a part of the notification, but is intended to be merely clarificatory).

[No. 93 (F. No. 50/17/68-ITJ]

S. O. 3635.—In exercise of the powers conferred by sub-section (1) of section 122 to the Incometax Act, 1961 (43 of 1951) and of all other powers enabling it in that behalf he Central Board of Direct Taxes hereby makes the following amendments in the Schedule rappointed to its ariffication No. 46 (F. No. 50/4/68-ITJ) dated the 31st May, 1968, namely:—

In the said Soudale under the existing entries in Column 2 against D-Range, Hydera-bad the following shall be substituted, namely:—

Range	Incometa c Circles, Wards and Districts
D-Range, Hyderabad	1. Project Circle, Hyderabad. 2. Recovery Circle, Hyderabad. 3. Central Circle (Old), Hyderabad

4. Central Circle, Hyderabad.
5. M.P.P. Circle, Hyderabad.
6. Nizamabad.
7. Nitmal.
8. Karimnagar.
9. Khammam
10. Salary Circle, Hyderabad.
11. Kothagudem.

This notification shall take effect from 7th October, 1968.

Explanatory Note

The amendments have become necessary on account of the formation of a new circle known as «Central Circle" at Hyderabad,

(The above note does not form a part of the notification but is intended to be merely clarificatory).

[No. 94 (F. No. 50/4/68--ITJ)]

S.O. 3636.—In exercise of the powers conferred by sub-section (1) of section 122 of the Incometax Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf and in supersession of all the previous notifications in this regard, the Central Board of Direct Taxes, hereby directs that the Appellate Assistant Commissioner of Incometax of the Ranges specified in column 1 of the Schedule below, shall perform their functions in respect of all persons and incomes assessed to incometax or supertax in the Incometax Circles, Wards and Districts specified in the corresponding entry in column 2 thereof:—

SCHEDULB

Range 1				Incometax Circles, Wards and Districts
A-Range, Jaipur	•	,	•	 B, C, E, G, H, J, K and M Wards, Jaipur. All companies circles having headquarters a Special Survey Circles I & II, Jaipur.
B-Range, Jaipur			•	 A, D and F Wards, Jaipur. Special Investigation Circles A & B, Jaipur. All central circles having headquarters at Jaipur. Estate Duty Circle, Jaipur. All Salary Circles having headquarters at Jaipur. Special Assessment Circles, I, II & III, Jaipur. Special Assessment Circle, Jaipur. Sikar Circle. Jhunjhunnu Circle.
A Range, Jodhpur .	•	•	•	 A, D and F-Wards, Jodhpur. Companies Circle, Jodhpur. Special Survey Circle, Jodhpur. All Incometax Wards having headquarters at Pali. All Incometax Wards having headquarters at Sirohi.
B-Range, Jodhpur .	•	•	•	 B, C, E and G Wards, Jodhpur. Special Assessment Circle, Jodhpur. All wards having headquarters at Nagaur.
Udaipur Range, Udaipur	·	•	•	 All Incpmetax Wards and Circles having headquarters at Udalpur. Chittorgarh Circle. Bhilwara Circle.

I				2
Bikaner Range, Bikaner	•			All Incometax Wards having headquarters at Bikaner All Incometax Wards having headquarters Sriganganagar.
Ajmer Range, Ajmer		•	٠	 All Incometax Wards having headquarters at Ajmer. Beawar Circle. All Incometax Wards having headquarters at Alwar.
Kota Range, Kota .	•			 All Incometax Wards having headquarters at Kota. Bharatpur Circle. Sawai Madhopur Circle.

Where an Incometax Circle, Ward or District or part thereof stands transferred by this notification from one Range to another Range, appeals arising out of assessments made in that Incometax Circle, Ward or District or part thereof and pending immediately before the date of this notification before the Appellate Assistant Commissioner of Incometax of the Range from whom that Incometax Circle, Ward or District or part thereof transferred shall, from the date this notification shall take effect, be transferred to and dealt with by the Appellate Assistant Commissioner of Incometax of the Range to whom the said Circle, Ward or District or part thereof is transferred.

This notifications shall take effect from 7th October, 1968.

Explanatory Note

The modification has become necessary on account of the creation of new Ranges of the A.A. Cs. known as Ajmer Range, Ajmer, Kota Range, Kota and B-range, Jodhpur in the Commissioners' charge.

(This note does not form part of the notification, but is intended to be merely clarificatory)

[No. 95 (F. No. 50/11/68-IT)]

S.O. 3637.—In exercise of the powers conferred by sub-section (1) of section 122: of the Incometax Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf and in supersession of all previous notifications in this regard, the Central Board of Direct Taxes hereby directs that the Appellate Assistant Commissioners of Income-tax of the Ranges specified in column 2 of the Schedule below shall perform their functions in respect of all persons and incomes assessed to income-tax or super-tax in the Income-tax Circles, Wards and Districts specified in the corresponding entry in column 3 thereof:—

SCHEDULE

S. No. R	Ranges 2		Incometax Circles, Wards & Districts.
1. Range I, Agr	ra		r. A to E Wards, Agra 2. I.T.Os., Administration & Collection Agra. 3. Ferozabad 4. Mathura
2. Range II, Aş	gra .		1. F to H and K to M Wards, Agra 2. Aligarh 3. Mainpuri 4. Fatehgarh
3. Moradabad		٠	. 1. Moradabad . 2. Rampur 3. Haldwani

I	2		5- 		3
4. Ran	ge I, Lucknow			,	 Circle I, Lucknow. Sitapur Lakhimpur Kheri
5. Ran	ge II, Lucknow	,			 Circle II, Lucknow Companies Circle, Lucknow Salar Circle, Lucknow Special Survey Circle, Lucknow Estate Duty cum Incometax Circle, Lucknow Hardoi Shahjehanpur Project Circle, Lucknow
6. Deh	radun .				 Dehradun Estate Duty cum Incometax Circle, Dehradun Saharanpur Roorkee Muzaffarnagar
7. Ran	ge I, Meerut		•	•	1. Central Circles, Mecrut 2. I.T.O., Collection, Mecrut 3. Bulandshahr
8. Ra n	ge II, Meerut	-	•		 C, D, E, F., & G Wards, Meerut Special Survey Circle, Meerut Salary Circle, Meerut Ghaziabad.
9. Ran	ge III, Meerut	•	•	•	t. A and B Wards, Mecrut 2. Project Circle, Mecrut 3. Najibabad
to. Rang	ge I, Kanpur		•		 Circle II, Kanpur Companies Circle, Kanpur. Jhansi
11. Ran	ge II, Kanpur	•	•	•	 A, B & C Wards, Circle I, Kanpur. Project Circle, Kanpur. I.T.O., Collection, Circle I, Kanpur Central Circles, Kanpur
12. Ran	gc III, Kanpur	•			 D, E, F, G, H, J, K. L, M & N Wards, Circle I, Kanpur Salary Circle, Kanpur Spl. Survey Circle, Kanpur Estate Duty cum Incometax Circle, Kanpur Special Circle, Kanpur Etawah Banda
13. Bere	illy	-			1. Bareilly 2. Nainital
14. Ra n	ge I, Varanasi	-	•		 A to F Wards, Varanasi Special Circle, Varanasi I.T.O., Collection, Varanasi Gorakhpur Jaunpur.
15. Ran	ge II, Varanasi		•		 G, H & J Wards, Varanasi Spl. Survey Circle, Varanasi Project Circle, Varanasi Ballia Azamgarh

1 2	3
16. Range, I, Allahabad .	. 1. A, B & C Wards, Allahabad 2. Salary Circle, Allahabad 3. Estate Duty cum Incometax Circle Allahabad 4. Gonda 5. Faizabad
7. Range II, Allahabad.	I. D, E & F Wards, Allahabad 2. Mirzapur.

Where an incometax circle, ward or district or part thereof stands transferred by this notification from one Range to another Range, appeals arising out of assessments made in that Incometax circle, ward or District or part thereof and pending immediately before the date of this notification before the Appellate Assistant Commissioner of the Range from whom that Incometax circle, ward or district or part thereof is transferred shall, from the date this notification shall take effect be transferred to and dealt with by the Appellate Assistant Commissioner of the Range to whom the aid circle, ward or District or part thereof is transferred.

This notification shall take effect from 7th October, 1968.

Explanatory Note

The amountment has become indeessary on account of creation of Incometax Office at Hardoi, Mainpari, Roorkee and Lakhimpur Kheri and also an account of the re-distribution of work amongst he A.A.Cs. on creation of two more Appellate Rai ges.

The above note does not form part of the notification, but is intended to be merely clarificatory)

[No.96 (F.No. 50/13/68-ITJ)]

New Delhi, the 7th October 1968

8.0. 3638—In exercise of the powers conferred by sub-section (1) of section 122 of the Income-tax Act, 1961 (43 of 1961) and of all other powers enabling it in that qehalf and in supersession of all the previous notifications in this regard, the Central Board of Direct Taxes, hereby directs that the Appellate Assistant Commissioners of Income-tax of the Ranges specified in column I of the Schedule below, shall perform their functions in respect of all persons and incomes assessed to income-tax or super-tax in the Income-tax Circles, Wards and Districts specified in the corresponding entry in Column 2 thereof:—

SCHEDULE

Ranges				Income-tax Circles, Wards and Districts
I				2
A Range, New Delhi	•			Companies Circles IV, VII, X, XIII, XIV, XV, XVI XVII and XVIII, New Delhi.
B Range, New Delhi	٠	٠	٠	 District I, Ward 'A' and A(I) New Delhi. District III Ward A, A(Addl.) & O. New Delhi. District VII, Ward A, B and A(I), New Delhi. District IX Ward A, New Delhi. Refunds Circle, New Delhi. B-I and BI-(I) District, New Delhi. C-I, C-I(I), C-II & C(III) Districts, New Delhi.
C Range, New Delhi	•			 Central Circles, I, V, VI, VII, VIII and XI New Delhi.
				2. Special Circles and Addl. Special Circles, Ne w Delhi.
				3. Special Investigation Circles A, B and C, New Delhl.

D-Range, New Delhi Dist. VIII Wards C, D, E, II, A (III), A(IV) and D(I), New Delhi. A-IV and A-IV(I) Districts, New Delhi.
Incomp-tax cum Wealth Tax Circles IV and XI 3. New Delhi. E-Range New Delhi . 1. District VIII Wards A, B, B-Addl., A(I) and A(II), New Delhi. A-I, A-I(I), A-III, A-III and Addl. A-III Districts, New Delhi. Income-tax cum Wealth tax Circle VIII, New Delhi, F-Range, New Delhi . Τ. Special Circles I, II, III, IV & V, New Delhi. Companies Circles I, III, IX, XIX, XX, XXI, and XXII, New Delhi. 3. D-I and D-II Districts, New Delhi. District III Wards B, C, D, E, F, New Delhi.
B-II, B-II(I), B-III, B-III(I), B-IV and B-IV(I) G-Range, New Delhi . Τ. Districts, New Delhi. Income tax cum Wealth Tax Circles I and V, New Delhi. B-XVII, B-XVII(1), B-XVII(2), B-XVII(3) and B-XVII(4) Districts, New Delhi.
 District VI, Wards A, B, C, D and E, New Delhi. H-Range, New Delhi з. 1. District III, Wards G, H, I, J, K, L, M, N and I-Range, New Delhi P, New Delhi. F. New Delhi.
 Evacuee Circle, New Delhi.
 B-V, B-V(I), B-VI, B-VI(I), B-VII, B-VII(I), Addl. B-VII, B-VIII, B-VIII(I), B-IX, Addl. B-IX, B-X, B-XI and B-XI(I), Districts, New Delhi. Income-tax cum Wealth Tax Ciercls II and VI, New Delhi. District II Wards A, B, C, D, E, F, A(I), C(I), C(I) Addl. and C-II, New Delhi. J-Range, New Delhi B-XIV, B-XIV(I) and B-XIV(II) Districts, New Delhi. District V, Wards A, B, C, D, E, F & G, New Delhi, B-XV, B-XV(I), B-XV(2), B-XVI, B-XVI(I) B-XVI(II), B-XVIIII, B-XVIII(I) and Addl. K-Range, New Delhi τ. B-XVIII Districts, New Delhi. 3. Income-tax cum Wealth Tax Circle III, New Delhi 1. District III, Wards A(I), C(I), E(I), G(I), I(I) L-Range, New Delhi . K(I), M(I), New Delhi. District IV, Wards A(I), B(I), C(I) and C(II), 2. New Dahi. District VI Wards A(I), A(II), C(I) and C(I) Addl. New Delhi. Special Assessment Circles I, II, III, IV, V, VI, VII, VIII, IX, X, New Delhi.
Special Survey Circles I, II, III, IV, V, VI, VII, VIII and IX, New Delhi. 4. 5. I. Companies Circles II, V, VI, VIII, XI and XII. M-Range, New Delhi New Delhi.

ī				2
N-Range, New Delhi		•		 District IV, Wards A, B, C, and D, New Delhi. District V, Wards A(I), B(I), C(I), F(I), F(I) (Addl.), F(II) and F(III), New Delhi. B-XII, B-XII(I), B-XIII and B-XIII(I), Districts, New Delhi. Income-tax cum Wealth Tax Circles IX and X, New Delhi.
O-Range, New Delhi	•	•	•	 All Government Salary Circles, New Delhi. All Private Salary Circles, New Delhi. Income-tax cum Wealth Tax Circle-VII, New Delhi. Income Tax cum Estate Duty Circle, New Delhi. Foreign Section, New Delhi.
P-Range, New Delhi	•	•	•	 Central Circle II, III, IV, IX, X, XII, XIII and XIV, New Delhi.

This notification shall take effect from 7th October, 1968.

Where an Income Tax Circle, Ward or District or part thereof stands transferred by this notification from one Range to another Range, appeals arising out of assessments made in that Income Tax Circle, Ward or District or part thereof and pending immediately before the date of this notification before the date of this notification before the Appellate Assistant Commissioner of Income Tax of the Range from whom that Income Tax Circle, Ward or district or part thereof is trasferred shall, from the date this notification shall take effect, be transferred to and dealt with by the Appellate Assistant Commissioner of Income Tax of the Range to whom the said Circle, Ward District or part thereof is transferred.

Explanatory Note

The amendments have become necessary on account of the creation of new Appellate Assistant Commissioners Ranges in the Commissioner's charge (The above note does not form part of the notification but is intended to be merely clarificatory).

No. 97(F. No. 50/12/68-ITJ):

New Delhi, the 8th October 1968

S.O. 3639.—In exercise of the powers conferred by sub-section (1) of ection 122 of the Income-tax Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf and in supersession of all the previous notifications in this regard the Central Board of Direct Taxes hereby directs that the Appellate Assistant Commissioners of Income-tax of the Ranges specified in Column I of the Schedule below, shall perform their functions in respect of all persons and incomes assessed to income-tax or super-tax in the Income-tax Circles, Wards and Districts specified in the corresponding entry in column 2 thereof:—

SCHEDULE

	Income-tax Circles, Wards and District:		
	2		
d	 Group Circle I, Ahmedabad. Circle III, Ahmedabad. Circle V Ahmedabad. Special Investigation Circle B, Ahmedabad. Special Investigation Circle A, Ahmedabad. 		
	. 1. Group Circle III, Ahmedabad. 2. Circle IV, Ahmedabad. 3. Circle IX, Ahmedabad. 4. Central Circle.		

I

C-Range, Ahmedabad			 Circle I and VII Ahmedabad. Circle VI, Ahmedabad.
D-Range, Ahmedabad		•	 Group Circle II, Ahmadabad. Nadiad.
E-Range, Ahmedabad		•	1 Circle II, Ahmedabad. 2. Circle VIII, Ahmedabad.
F-Range, Ahmedabad	٠		I. Circle X, Ahmedabad. 2. Petlad. 3. Mehsana. 4. Palanpur. 5. Patan.
Surat Range, Surat .			1. Surat. 2. Nayşari.
A-Range, Baroda .	•		1. A, B, C, D, E, F, Wards Baroda. 2. Godhra.
B-Range, Baroda .	•	• •	 G, H, I, J, K, L Wards, Baroda. Broach. Bulsar.
Rajkot Range, Rajkot	• .		 Rajkot. Morvi, Surendranagar.
Bhavanagar Range Bha	ivanagar	•	 Bhavanagar, Amroli. Junagarh. Porbandar.
Jamnagar Range Jamn	agar		1. Jamnagar. 2. Bhuj.

Where an Income-tax Circle, Ward and District or part thereof stands transferred by this notification from one Range to another Range, appeals arising out of assessments made in that Income-tax Circle, Ward or District or part thereof and pending immediately before the date of this notification before the Appellate Assistant Commissioner of Range from whom that income tax Circle, Ward or District or part thereof is transferred shall, from the date this notification shall take effect be transferred to and dealt with by the Appellate Assistant Commissioner of the range to whom the 34'd circle, ward or district or part thereof is transferred.

This notification shall take effect from the 10th October, 1968.

Explanatory Note

The amendments have become necessary on account of the creation of new ranges of the A.A.C. in the Commissioner's charge.

(The above note does not form part of the notification, but is intended to be merely clarific-tory).

[No. 98 (F. No. 50/9/68 IT])]

New Delhi, the 9th October 1968

S. O. 3640:—In exercic of the powers conferred by Sub-section (1) of Section 122 of the Income-tax Act, 1961 (43 of 1961), and of all other powers enabling it in that behalf, and in supersession of all previous notifications in this regard, the Central Board of Direct Taxes liereby directs that the Appellate Assistant Commissioners of Income-tax of the Ranges specified

in Column 1 of the Schedule below shall perform their functions in respect of all persons and incomes 3,383,384 to income-tax or super-tax in the Income-tax Circles, Wards and Districts specified in the corresponding entry in Column 2 thereof:—

SCHEDULE

I Range	Income-tax Circles, Ward; and Districts 1. Dibrugarh Circle. 2. Salary Circle, Dibrugarh. 3. Tinsukia Circle. 4. Digboi Circle. 5. Sibsagar Circle. 6. Companies Circles, Dibrugarh.	
r. Dibrugarh Range, Dibrugarh		
2. Gauhati Range, Gauhati	1. Gauhati Circle. 2. Nowgong Circle.	
3. Shillong Range, Shillong	 Shillong Circle. Salary Circle, Shillong. Special Circle, Shillong. Jorhat Circle. 	
4. Tezpur Range, Tezpur .	 Tezpur Circle. Dhubri Circle. 	
5. Silchar Range, Silchar	 Silchar Circle. Karimganj Circle. Tripura Circle, Agartala. Manipur Circle, Imphal. 	

Where an Income-tax Cricle, Ward or District or part thereof stands transferred by this notification from one Range to another Range, appeals arising out of assessments made in that neome-tax Circle, Ward or District or part thereof and pending immediately before the date of this otification before the Appellate Assistant Commissioner of Range from whom that Incometax Circle, Ward or District or part thereof is transferred shall from the date this notification, shall take effect, be transferred to and dealt with by the Appellate Assistant Commissioner of the Range to whom the said Circle, Ward or District or part thereof is transferred.

This notification shall take effect from the 10th October, 1968.

Explanatory Note

The notification has become necessary on account of the creatton of two new ranges of the AAC known as Tezpur Range, Tezpur and Silchar Range, Silchar.

(The above note does not form part of the notification, but is intended to be merely clarificatory).

[No. 99 (F. No. 50/16/68-ITJ)

S. V, SUBBA RAO, Under Secy.

ESTATE DUT

New Delhi, the 9th October 1968

- S.O. 3641.—In exercise of the powers conferred by the second proviso to sub-section (2) of Section 4 of the Estate Duty Act, 1953 (34 of 1953), and in supersession of its notification No. 22/F. No. 21/35/64-E.D. dated the 11th May, 1964, the Central Board of Direct Taxes hereby directs that every Income-tax Officer appointed to be an Assistant Controller and posted to the Estate Duty cum Income-tax Circle, Calicut, shall perform his functions as Assistant Controller in the said Circle to the exclusion of all other Assistant Controllers in respect of the estates of all deceased persons, who immediately before their death, were being or would have been assessed to Income-tax, had they derived any taxable income in any Income-tax Circle, the headquarters of which lies within the revenue districts of Trichur, Palghat, Calicut and Cannanore.
 - 2. This notification shall come into force with effect from 3rd October, 1968.

[No. 26/F.No. 21/40/68-E.D.]

- S.O. 3642.—In exercise of the powers conferred by the second proviso to sub-section (2) of Section 4 of the Estate Duty Act, 1953 (34 of 1953), and in supersession of its notification No. 22/F. No. 21/35/64-E.D. dated the 11th May, 1964, the Central Board of Direct Taxes hereby directs that every Income-tax Officer appointed to be an Assistant Controller and posted to the Estate Duty-cum-Income-tax Circle, Ernakulam, shall perform his functions as Assistant Controller in the said Circle to the exclusion of all other Assistant Controllers in respect of the estates of all deceased persons, who, immediately before their death, were being or would have been assessed to Income-tax, had they derived any taxable income in any Income-tax, Circle, the headquarters of which lies within the revenue districts of Trivandrum, Quilon, Alleppy, Kottayam and Ernakulam.
 - 2. This notification shall come into force with effect from the 3rd October, 1968.

[No. 27/F. No. 21/40/68-E.D.]

R. D. SAXENA, Secy.

OFFICE OF THE COLLECTOR OF CUSTOMS, BOMBAY

Сизтома

Bombay, the 5th August 1968

S.O. 3643.—In exercise of the powers conferred by clause (a) of Section 8 of the Customs Act, 1962 (Act 52 of 1962), the Collector of Customs, Bombay, approves and declares for the Customs Port of Kandla, the place mentioned in Column 1 of the table below as a place for loading and un-loading of goods or class of goods mentioned in Column 2 of the said Table and subject to the conditions mentioned therein.

TABLE

Name of Place	Description of cargo permitted to be loaded and un-loaded
The mooring North of the Salt Mooring in Kandla.	(1) All dry cargo. (2) Explosives and dangerous petroleum when the Morring is not in use by Ships with dry cargo.

[No. 442.]

G. S. SAWHNEY, Collector.

Bombay, the 27th September 1968

S.O. 3644.—In exercise of the powers conferred upon the Collector of Customs under Sec. 8(b) of the Customs Act, 1962, in so far as they relate to the Bombay Airport, I hereby declare the following areas as the limits of the Bombay Airport at Santa Cruz.

"The whole of the aerodrome including the runways, the tarmac, the parking base, the hangers for parking and repairs, Airline offices, buildings, petrol installation and structures bounded by and within the following:

- (i) In the north by an imaginary line running East to West 19° 07' N. Latitude.
- (ii) In the south by an imaginary line running East to West at 19° 05′ 10″ N. Latitude.
- (iii) In the east by an imaginary line running North to South at 72° 53' E. and meeting the imaginary lines in the North and South.
- (iv) In the west by the Bombay-Ahmedabad Road (Western Express Highway) meeting the imaginary lines running paralle at 19° 05′ 10″ N. and 19° 07′ N. Latitude.

[No. 445.]

R. N. SHUKLA, Addl. Collector.

CENTRAL EXCISE COLLECTORATE, BOMBAY

CENTRAL EXCISES

Bombay, the 8th Oct., 1968.

S. O. 3645.—In exercise of the powers conferred upon me under rules 5 of the Central Excise Rules, 1944, and in supersession of the Collectorate Notification No. CER/5/6/64 dated the 22nd/26th Sept., 1964, I hereby empower the Central Excise officers specified in column No. 2 of the subjoined table, to exercise within their respective jurisdictions the powers of "Gollector" under Rule 56A of the Central Excise Rules, enumerated in column No. 1 thereof, subject to the limitations set out in column No. 3 of the said table:—

TABLE		
O. Ex. Rules	Rank of Officers	Limitations if any
I	2	3
56-A(2)	Asstt. Collector	To grant permission to avail of the procedure of proforma credit under Rule 56A.
56A(4)	All officers of and above the rank of Supdt. of C. Ex.	To the extent of the powers of adjudication delegated to them.
(F. No. VI(a)21-158/62)		[No. CER/5/8/1968]
		A. K. ROY, Collector

COLLECTORATE OF CUSTOMS & CENTRAL EXCISE, COCHIN-3.

CENTRAL EXCISES

Cochin, the 4th September, 1968

S.O. 3646.—In exercise of the powers conferred on me by Rule 5 of the Central Rules, 1944, I hereby empower all Officers of and above the rank of Superintendent of Central Excise, Class II, to exercise within their respective jurisdiction, the powers of "Collector" under Rule 56-A(4) of the aforesaid Rules.

(Issued from file C. No. IV(16)227/68 CX.I)

[No. 5/68.]

D. N. KOHLI, Collector.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, HYDERABAD, DECCAN (AP)

Hyderabad, the 10th September 1968

S.O. 3647.—In exercise of the powers conferred on me under rule 5 of the Central Excise Rules, 1944, I hereby delegate the powers conferred on me under sub-rule (4) of rule 56A of the Central Exeise Rules, 1944 to all officers of and above the rank of Superintendents of Central Exeise in the Hyderabad Central Exeise Collectorate.

[No. 5/68-CE.]

M. J., ROUTH, Collector.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE AND CUSTOMS, PATNA

CENTRAL Excises

Patna, the 13th September 1968

S.O. 3648.—In exercise of the powers conferred on me under Rule 5 of the Central Excise Rules, 1944, I hereby empower the officers of and above the rank of Superintendent

in the Central Excise, Collectorate, Patna to exercise the powers of Collector under Rule 56A(4) ibial.

[No. 4-CX/68.]

S.O. 3649.—In the Table below this office Notification No. 3/CX/68 dated 18th May, 1968 Serial No. 3 relating to delegation of Collector's power under Rule 53 and 173G to exempt from maintenance if RG1 (for assessees working under Self Removal Procedure) shall be deleted.

[No. 5/CX/68.]

TILAK RAJ, Collector.

THE MADRAS CENTRAL EXCISE COLLECTORATE: MADRAS.

CENTRAL EXCISES

Madras, the 29th September 1968

S.O. 3650.—In pursuance of Rule 5 of the Central Excise Rules, 1944, I empower the Central Excise Officers of and above the rank of "Superintendent", to exercise within their respective jurisdictions, the powers of the "Collector" conferred by Rule 56-A(4) of the Central Excise Rules, 1944.

[C. No. IV/16/519/62-CX.I.]

A. R. SHANMUGAM, Collector.

MINISTRY OF COMMERCE

New Delhi, the 9th October 1968

S.O. 3651.—In exercise of the powers conferred by sub-section (3) of section 18 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Commerce, No. S.O. 2288, dated the 17th July, 1965, namely:—

In the said notification,-

- (i) after the word "Punjab", the word "Haryana" shall be inserted;
- (ii) for the words "Union territory of Delhi", the words "Union territories of Delhi and Chandigarh" shall be substituted.

[No. F.21(14)-CG/68.]

SURENDRA SINGH, Dy. Secy.

(Office of the Jt. Chief Controller of Imports & Exports)

ORDERS

Bombay, the 30th July 1968

- Subject.—Order for cancellation of Customs Purposes copy of licence No. 0108922 dated 7th November, 1966 for Rs. 35,000/- issued in favour of M/s. Jagkumar and Co. Bombay.
- S.O. 3652,—M/s, Jagkumar and Co. Bombay was granted the import licence No. P/EI/0108922 dated 7th November 1966 for Rs. 35,000/- for the imports of items shown on the reverse of this order for the licensing period A.M. 67 from USA. They have applied for duplicate copy of Custom Purposes of the above mentioned licence on the ground that the original customs and exchange purposes copy of the licence has been lost or misplaced. It is further stated that the original licence was partly willised with the Custom House Bombay leaving a balance of Rs. 12,464/-.
- 2. In support of this contention, the applicant has filed an Affidavit on stamped papers duly attested before the City Magistrate. I am satisfied that the original licence No. 0108922 dated 7th November 1966 has been lost or misplaced and direct that a duplicate Customs Purpose copy of the licence should be issued to the applicant. The original licence No. 0108922 dated 7th November 1966 is cancelled.

[No. 293.95.97. IV/3/MVP/L3.US. Aid.]

- Subject.—Order for cancellation of Customs Purposes copy of licence No. 0118043 dated 13th December, 1967 for Rs. 437 issued in favour of M/s. Jaimal Singh Kohli, Bombay.
- 8.0. 3653.—M/s. Jaimal Singh Kohli, Bombay granted the import licence No. P/LI/0118043, dated 18th December, 1967 for Rs. 437 for the imports of items shown on the reverse of this order for the licensing period A.M.68 from G.C.A. They have applied for duplicate copy of Custom Purposes of the above mentioned licence on the ground that the original customs and exchange purposes copy of the licence has been lost or misplaced. It is further stated that the original licence was not registered with any Customs House and not utilised.
- 2. In support of this contention, the applicant has filed an Affidavit on stamped papers duly attested before the City Magistrate. I am satisfied that the original licence No. 0118043 dated 18th December, 1967 has been lost or misplaced and direct that a duplicate Customs Purpose copy of the licence should be issued to the applicant. The original licence No. 0118043, dated 18th December, 1967 is cancelled.

[No. 275(b)IV/J.200/AM.68/L3/LI.3.]

I. R. KAKAR,

Dy. Chief Controller of Imports, for Jt. Chief Controller of Imports and Exports.

(Office of the Jt. Chief Controller of Imports and Exports) (Central Licensing Area)

ORDERS

New Delhi, the 23rd August, 1968

- 8. 0. 3654.—A licence No. P/SS/1605093/C/XX/23/C-D/23.24, dated 23rd January, 1967, of the value of Rs. 61,246/- for import of White Printing Paper (excluding laid marked paper) which contains Mechanical Pulp amounting to not less than 70 per cent of the fibre contents and should not be less than 50 grammes per square meter—Unlazed News Print, was issued to M/s. State Trading Corporation of India, Ltd., New Delhi with sub-authorisation in favour of M/s. Raj Publishers (Regd.), Adda Tanda, Jullundur City.
- 2. Thereafter, a show cause notice No. P.N. 84/66/R-57/AM.67/AU.Raj.AU.PB/6851 dated 20th January, 1968 was issued asking them to explain the reasons within 10 days as to why the said licence in their favour should not be cancelled as the same has been wrongly granted, in terms of Clause 9 sub-clause (a).
- 3. In response to the aforesaid show cause notice M/s. Raj Publishers Regd. Juliundur City, had by their letter dated 30th January, 1968 furnished a detailed explanation and had also asked for personal hearing with the Jt. Chief, which was allowed to their representative on 24th February, 1968. In their said teply and at the time of personal hearing, the firm contended that:—
 - (a) They are entitled to a licence for News Print and Art paper as they had been getting the same in the past.
 - (b) They had not misrepresented the facts or done any thing illegal.
- 4. The undersigned has carefully examined the said representation and has come to the conclusion that no licence could be issued to the firm in terms of paragraph 2(a) of Public Notice No. 104/66. The licence thus issued was irregular and is to be cancelled under sub-clause (a) as entitled for a licence under aforesaid provision.
- 5. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under clause 9 sub-clause (cc) of the Import (Control) Order, 1955 hereby cancel the licence No. P/SS/1605093/C/XX/C/D/23.24 dated 23rd January, 1967 for Rs. 61,246/- issued in favour of M/s. State Trading Corporation of India Ltd., New Delhi, with sub-authorisation in favour of M/s. Raj Publishers (Regd.) Adda Tanda, Jullundur City.

INo. P.N.84/66/R-57/AU.Raj./250/AM.67/AU. P.B.]

New Delhi, the 6th September 1968

- S.O. 3655.—Licences Nos.—
 - 1. P/SS/1505008/C dated, 30th June 1966 for Rs. 2699/- for Thermostat.
 - 2. P/SS/1537036/C dated, 27th July 1966 for Rs. 250/- for Nichrome Wire,
 - 3. P/SS/158881/C dated, 30th October 1965 for Rs. 762/- for Nichrome Wire.
 - 4. P/SS/1537258/C dated, 26th August 1965 for Rs. 2360/- for Incoloy Metal Tubes.
 - 5. P/SS/1588646/C dated, 30th September for Rs. 250/- fee-Rolled Nickle Anodes.
 - P/SS/1588804/C dated, 30th September, 1965 for Rs. 769/- for Mica Dielectric Suppressor Condensors
 - 7. P/SS/1587255/C, dated 23rd August, 1965 for Rs. 272/- for Bimetal Strips.
 - 8. P/SS/1573963/C, dated 2nd September, 1966 for Rs. 14724/- for Thermostats etc.
 - 9. P/SS/1506183/C dated 15th July, 1966 for Rs. 4035/- for Bimetal Strips etc.
 - 10. P/SS/1575894/C, dated 26th October. 1966 for Rs. 1528/- for Bimetal Strips etc.
 - P/SS/1504787/C dated 15th June, 1966 for Rs. 7875/- for Bimetal Stripe and Thermostatic Electric Controls.

were issued to M/s. Hindustan Electrical Industries, 23, Masjid Road, Jangpura, New Delhi subject to the condition that the goods imported against these licences would be utilised in the licence holder's facory and no portion thereof would be sold to or be permitted to be utilised by any other party.

- 2. Thereafter, a show cause notice No. H-13/66/ENF/CLA3561, dated 21st March, 1967 was issued asking them to show cause within 10 days as to why the said licences in their favour should not be cancelled on the ground that the Central Government is satisfied that these licences will not serve the purpose for which these were granted in terms of Clause 9, sub-clause (cc) of the
- 3. In response to the aforesaid show cause notice, M/s. Hindustan Electrical Industries, 23 Masjid Road, Jangpura, New Delhi had by their letter dated 1st May, 1967 furnished a detailed explanation. In their said reply the firm contended that the Director of Industries had checked up their record and found no irregularity during the course of checking.
- 4. The undersigned has carefully examined the said representation and has come to the conclusion that the firm's reply is not based on facts and as such the same cannot be relied upon.
- 5. Having regard to what has been stated in the preceeding paragraph, the undersigned is satisfied that the licences in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9 sub-clause (cc) of the Imports (Control) Order. 1955 hereby cancel the licences as above issued in favour of M/s. Hindustan Electrical Industries, 23. Masjid Road, Jangoura. New Delhi.

To

M/s. Hindustan Electrical Industries, 23, Masjid Road, Jangpura, New Delhi.

[No. H-13/66/ENF/CLA.]

New Delhi, the 24th September 1968

- S.O. 3656.—M/s. Bhajan Singh Partap Singh & Co., 2317, Tilak Bazar, Delhi-6, were granted an ad hoc import licence No. P/BI/0161867/T/TR/27/CD/27/NQQ/Ad hoc, dated 26th April, 1968 for Rs. 3,750 (Rupees three thousand seven hundred and fifty only) for import of dates from Iraq for October-September, 1968 licensing period. They have applied for the issue of a duplicate copy of each of the customs purposes and the exchange control copies thereof, on the ground that their original copies have been lost, without having been utilized and without having been registered with any Custom House.
- 2. The applicant have filed an affidavit, in support of their contention as required under para 299(2) read with Appendix 8 of the I.T.C. Hand Book of Rules and Procedure, 1968. I am satisfied, the original customs purposes and exchange control copies have been lost

3. In exercise of the powers conferred on me, under clause 9(cc) Import (Control) Order, 1955, dated 7th December, 1955 as amended upto date, I order cancellation of both, the Customs purposes and the exchange control copies of the import licence No. P/EI/0161867/TIR/27/CD/27/NQQ/Ad hoc, dated 26th April, 1968.

[No. 21-IV|74|2-61|LVC|760|Iraq|OS-68(PN.17067))I-S|CLA.]

New Dethi, the 3rd October 1968

- S.O. 3657.—M/s. Shree Changdeo Sugar Mills Limited, Puntamba, Distt. Ahmednagar, were granted licence No. P/A/1212346/C/XX/27/D/25.26 dated 10th June, 1968 for import of Boiler Hand Hole Caps with bridge, nuts and gaskets for Buckan Wolf Boiler No. 4 as per list attached worth Rs. 7,200. They have applied for a duplicate copy for Customs as well as Exchange Control Purposes thereof on the ground that original licence in duplicate has been lost/misplaced. It is further stated that the original licence was not registered with any Customs authority and was not utilised at all.
- (2) In support of this contention, the applicant has filed necessary affidavit as required under para 299(2) read with Appendix 8 of the I.T.C. Hand Book of Rules and Procedure. 1968. I am satisfied that the original licence No. P|A|1212346|C|XX|27|D|25.26 dated 10th June, 1968 in duplicate has been lost/misplaced and
- (3) In exercise of the powers conferred on me under clause 9(c) Import (Control) order, 1955 dated 7th December, 1955 as amended upto date, I order cancellation of both Custom and Exchange Control copies of licence No. P/A/1212346/C/XX/27/D/25.26 dated 10th June, 1968.
- (4) The applicants are now being issued a duplicate copy of the said licence for both customs as well as exchange Control purposes in accordance with para 299(2) of I.T.C. Hand Book of Rules and Procedure, 1968.

[No. Sugar/S.12/AM68/AU.Misc/CLA.]

J. S. BEDI.

Joint Chief Controller of Imports & Exports.

(Office of the Chief Controller of Imports and Exports)

ORDERS

New Delhi, the 10th September 1968

- S.O. 3658.—A licence No. P/CG/2049490/PL/CZ/EG/25/C/H/25/CG.IV dated 25th October, 1967, for the value of Rs. 2,70,000/- for the import of "Machine Tools and Spares for the manufacture of Steel Castings" from Poland/Czechoslovakia/G.D.R. was issued to M/s. Super Shine Steel and Tube Industries, Talkatora Road, Industrial Area, Lucknow-4.
- 2: Thereafter, a show cause notice No. 10(22)/68-Vig/3331 dated 20th August, 1968 issued in terms of Clause 9 of the Imports (Control) Order, 1955 asking the licensee to explain within ten days as to why the said licence should not be cancelled on the round that the same was obtained by them on basis of forged minutes of 252nd meeting of C.G. Ad-hoc Committee;
- 3. The aforesaid show cause notice has been received back undelivered from the Postal authorities with the remarks "Refused";
- 4. The undersigned has carefully examined the case and has come to the conclusion hat the said licence has been obtained on the basis of false and fabricated documents and he licence holders are avoiding the service of the show cause notice;
- 5. Having regard to what has been stated in the preceeding paragraph, the undersigned satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned in exercise of the powers vested in him under Clause 9(a) of the mports (Control) Order, 1955 hereby cancel the licence No. P/CG/2049490/PL/CZ/EG/15/C/H/25/CG.IV dated 25th October, 1967 for Rs. 2,70,000/- issued in favour of M/s. upor Shine Steel and Tube Industries, Talkatora Road, Industrial Area, Lucknow-4.

New Delhi, the 26th September 1968

- S.O. 3659.—Two licences Nos. (i) P/NA/AU/1267237/C/XX/25/C/H/21-22/NQQ, (ii) P/NA/AU/1267251/C/XX/25/C/H/21-22/NQQ, dated 26th April, 1967 and 21st April, 1967 for the value of Rs. 1,13,006/- and Rs. 1,50,674/- respectively both for import of Tullow and Palm Oil were issued to M/s. Sheetal Persad and Sons, Pucca Taalab, 307, Ramteram Road, Ghaziabad (U.P.). Thereafter the firm represented that the above two licences had been lost in a fire and obtained duplicate import licences (1) No. D 2461060 (Customs Copy) and No. D 2461061 (Exchange Copy) dated 3rd April, 1968 in lieu of original licence No. P/NA/AU/1267237 and (2) No. D 2461058 (Customs Copy) and No. D 2461059 (Exchange Copy) dated 3rd April, 1968 in lieu of original licence No. P/NA/AU/1267251.
- 2. On the 9th September, 1968, a show cause notice No. 10(19)/68-Vig/3709 was issued in terms of Clause 9 of the Imports (Control) Order, 1955 asking the licensee to explain, within ten days, as to why the said licenses should not be cancelled on the ground that the same were obtained by them on the basis of false statements and documents;
- 3. The aforesaid show cause notice has been received back undelivered from the Postal authorities with the remarks "Firm closed";
- 4. The undersigned has carefully examined the case and has come to the conclusion that the licences have been obtained on the basis of false statements and spurious documents and the licence holders have gone under ground.
- 5. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licences in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned in exercise of the powers vested in him under Clause 9(a) of the Imports (Control) Order, 1955 hereby cancel the licences (1) No. P/NA/AU/1267237/C/XX/25/C/H/21-22/NQQ, dated 26th April, 1967 for Rs. 1,13,006/-, (2) P/NA/AU/1267251/C/XX/25/C/H/21-22/NQQ, dated 27th April, 1967 for Rs. 1,50,674/- and duplicate licence Nos. (i) D 2461058 (Customs Copy), (ii) D. 2461059 (Exchange Copy), (iii) D 2461060 (Customs Copy) and (iv) D 2461061 (Exchange Copy) issued in favour of M/s. Sheetal Persad and Sons, Pucca Taalab, 307, Ramteram Road, Ghaziabad (U.P.).

[No. 10(19)/68-Vig.]

M/s. Super Shine Steel & Tube Industries,

B. D. BHATTACHARYA.

Talkatora Road, Industrial Area Lucknow-4. Dy. Chief Controller of Imports and Exports.

(Office of the Jt. Chief Controller of Imports and Exports) ORDERS

Calcutta, the 26th September 1968

- S.O. 3660. -A licence No. P/SS/1628660/C/XX/27/C/25, dated 13th May, 1968 of the value of Rs. 25,000/- for import of Acrylic Plastic Sheets, Cellulose Nitrate Sheets and Polystyrene, P/SS/1628661/C/T/R/27/C/25-26 dated 13th May, 1968 for the value of Rs. 34254/- for the import of Acrylic Plastic Sheets, Cellulose Nitrate Sheet sand Polystyrene and P/SS/1628662/T/GE/27/C/25-26 dated 18th May, 1968 for the value of Rs. 17129/- for the import of Acrylic Plastic Sheets, Cellulose Nitrate Sheets and Polystyrene was issued to M/s. Bijoy Plastic Industries, Bigbazar, Berhampur, Ganjam, Orissa.
- 2. Thereafter, a show cause notice No. 105/68/E&L dated 27th August, 1968 was issued asking them to show cause within 15 days as to why the said licence in their favour should not be cancelled on the ground that the transfer of ownership had not been duly notified to the Director of Industries, Orissa for detaining the approval of the same authority to the said transfer of ownership as provided in para 93(2)(b)(II) of the Hand Book of Rules and Procedure and whereas the application submitted by the new owner during the licensing period April, March, 1968 was not a valid application according to rules in terms of clause 9, sub-clause (b).
- 3. The aforesaid show cause notice has been received back undelivered from the Postal Authorities with the remarks "Abolished".
- 4. The undersigned has carefully examined the case and has come to the conclusion that the said licences have been obtained on the basis of mis-representation of facts and the licence holders are avaoiding the service of the show cause notice.

5. Having regard to what has been stated in the preceeding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9 subclause (b) of the Imports (Control) Order, 1955 hereby cancel the licence No. P/SS/1628660/C/XX/27/C/25-26 dated 13th May, 1968, P/SS/1628661/C/T/R/27/C/25 dated 13th May, 1968 and P/SS/1628662/T/GE/27/C/25-26 dated 13th May, 1968 for Rs. 25,000/-, Rs. 34254/- and Rs. 17129/- issued in favour of M/s. Bijoy Plastic Industries, Bigbazar, Berhampur, Ganjam, Orissa.

[No. 105/68-E&L.]

Calcutta, the 3rd October 1968

- 8.0. 3661.—A licence No. P/SS/1627092/C/XX/26/C/C/23-24 dated 25th October, 1967 of the value of Rs. 2,903/- for import of Zinc and Lead was issued to M/s. The National Cable Works Ltd., 20, Goalpara Road, Calcutta-34.
- 2. Thereafter, a show cause notice No. 182/67/E&L dated 23rd December, 1967 was issued asking them to show cause within 15 days as to why the said licence in their favour should not be cancelled on the ground that the licence in question was granted inadvertantly treating the industry as a priority one in terms of clause 9, sub-clause (a).
- 3. In response to the aforesaid show cause notice, M/s. The National Cable Works Ltd., Calcutta had, by their letter dated 25th January, 1968 furnished a detailed explanation.
- 4. The undersigned has carefully examined the said representation and has come to the conclusion that the purpose for which the licence was issued would not be served.
- 5. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9, subclause (a) of the Imports (Control) Order, 1955 hereby cancel the licence No. P/SS/1627092/C/XX/26/C/C/23-24 dated 25th October, 1967 for Rs. 2,903/- issued in favour of M/s. The National Cable Works Ltd., 20, Goalpara Road, Calcutta-34.

[No. 182/67/E&L.]

MUKHERJI.

Dy. Chief Controller of Imports and Exports.

(Office of the Chief Controller of Imports and Exports)

ORDER

New Delhi, the 3rd October 1968

S.(i. 3662.—M/s. Tinsukia Flour Mills, Assam were granted in import licence No. P/CG/2048561/T/CZ/23/C/H/23/CG.III dated 27th September, 1966 for Rs. 1,13,450/-(Rupees one lakh thirteen thousand four hundred and fifty only). They have applied for a duplicate Custom Purpose Copy of the said licence on the ground that the original Custom Purposes copy has been lost/misplaced without having been utilised at all. In support of this contention, the applicant has filed an affidavit.

I am accordingly satisfied that the original Customs Purposes copy of the said licence has been lost. Therefore, in exercise of the powers conferred under Sub-clause 9(cc) of the Imports (Control) Order, 1955 dated 7th December, 1955 as amended, the said original cusom purposes copy of licence No. P/CG/2048561/T/CZ/23/C/23/CG.III dated 27th September, 1966 issued to M/s. Tinsukia Flour Mills, Assam is hereby cancelled.

A duplicate Customs Purposes copy of the said licence is being issued separately to the licensee.

[No. 30/202/62-63/CG.III.]

Miss S. K. GREWAL,

Deputy Chief Controller of Imports and Exports.

(Office of the Chief Controller of Imports and Exports)

ORDER

New Delhi, the 7th October 1968

- S.O. 3663.—M/s. J. K. Synthetics Ltd., Kamla Tower, Kanpur were granted an import licence No. P/CG/2049715/T/HG/26/C/H/26, dated 9th February, 1968 for Rs. 15,50,000 (Rupees fifteen lakhs and fifty thousand only). They have applied for the issue of a duplicate Customs Purposes/Exchange Control Purposes copy of the said licence on the ground that the original Customs Purposes/Exchange Control copy has been lost. It is further stated that the original Customs Purposes/Exchange Control Copy was not registered with any Customs authority/Bank and not utilised at all.
- 2. In support of this contention, the applicant has filed an affldavit. I am accordingly satisfied that the original Customs Purposes/Exchange Control Purposes copy of the said licence has been lost. Therefore, in exercise of the powers conferred under Sub-clause 9(cc) of the Imports (Control) Order 1955 dated 7th December. 1955 as amended, the said original Customs Purposes/Exchange Control Purposes copy of Licence No. P/CG/2049715/T/HG/26/C/H/26, dated 9th February, 1968, issued to M/s. J. K. Synthetics Ltd., Kanpur is hereby cancelled.
- 3. A duplicate Customs Purposes/Exchange Control Purposes copy of the said licence is being issued separately to the licensee.

[No. CG.I/23(18)/67-68.]

H. D. GUPTA,

Dy. Chief Controller of Imports & Exports for Chief Controller of Imports & Exports.

MINISTRY OF FOOD, AGRICULTURE, COMMUNITY DEVELOPMENT & COOPERATION

(Department of Co-operation)

New Delhi, the 18th September 1968

S.O. 3664.—In exercise of the powers conferred by Section 5B of the Multi-Unit Cooperative Societies Act, 1942 (6 of 1942) and in supersession of the former Ministry of Community Development and Cooperation (Department of Cooperation) Notification No. 3-14/64-CT dated the 24th July, 1965, the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the former Ministry of Community Development and Cooperation (Department of Cooperation) No. S.O. 1593 dated the 28th June, 1961, published at page 1555 of Part II Section 3(ii) of the Gazette of India of the 8th July, 1961 namely:—

In the said notification against serial No. 13 for the entry 'Shri Niranjan Singh', the entry 'Shri M. M. K. Wali' shall be substituted.

[No. 7-4/68.Credit.]

S.O. 3665.—In exercise of the opwers conferred by Section 5B of he Multi-Unit Cooperative Societies Act, 1942 (6 of 1942) and in supersession of the Ministry of Food, Agriculture, Community Development and Cooperation (Department of Cooperation) Notification No. 7-13/66-Credit dated the 4th August, 1967, the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Former Ministry of Community Development and Cooperation (Department of Cooperation) No. S.O. 1593, dated the 28th June, 1961, published at page 1555 of part II Section 3(ii) of the Gazette of India of the 8th July, 1961, namely:—

In the said notification against serial No. 10 for the entry 'Shri Bamadeb Rath', the entry 'Shri A. K. Roy' shall be substituted.

[No. 7-4/68-Credit.]

V. V. NATHEN, Dy. Secy.

(Department of Food)

New Delhi, the 11th October 1968

- S.O. 3666.—In exercise of the powers conferred by section 42 of the Warehousing Corporations Act, 1962 (58 of 1962), the Central Warehousing Corporation, with the previous sanction of the Central Government, hereby makes the following regulations further to amend the Central Warehousing Corporation Employees' Provident Fund Regulations, 1962, namely:—
- 1. (1) These regulations may be called the Central Warehousing Corporation Employees Provident Fund (Amendment) Regulations, 1968.
- (2) Regulations 2, 3 and 4 shall be deemed to have come into force on the first day of November, 1967 and regulations 5, 6 & 7 shall come into force on the date of their publication in the official Gazette.
- 2. In the Central Warehousing Corporation Employees' Provident Fund Regulations, 1962; (hereinafter referred to as the said regulations), in regulation 3.
 - (1) for clause (e), the following clause shall be inserted, namely:-
 - "(e) 'Employee' means a person in whole time service of the Corporation and shall include an enlisted worker, but will not include a person on deputation or employed on daily wages."
 - (2) after clause (e), the following clause shall be inserted, namely :-
 - "(ee) "Enlisted Worker" means a worker employed at a Bombay Warehouse who is entitled to provident fund benefits under the Memorandum of Settlement arrived at between the Corporation and the Transport and Dock Workers Union, Bombay on the 13th Day of June, 1968."
- 3. In regulation 8 of the said regulations, for the brackets, words and figures "(not being less than 8 1/3 per cent)", the brackets, words and figures "(not being less than 8 per cent in the case of an enlisted worker and not less than 8 1/3 per cent in the case of any other subscriber)" shall be substituted.
- 4. Regulation 10 of the said regulations shall be renumbered as sub-regulation (1) thereof and in sub-regulation (1) as so renumbered, for the first proviso, the following shall be substituted, namely:—
 - "Provided that the amount contributed by the Corporation shall not,
 - (i) in the case of an enlisted worker, exceed 8 % or
 - (ii) in the case of any other subscriber exceed 8 1/3% of the pay earned by the subscriber during a particular month.
- 5. After sub-regulation (1) of regulation 10 of the said regulations, the following sub-regulation shall be inserted, namely:—
 - "(2) Notwithstanding anything contained in regulation 7, an employee who immediately before his entry into the service of the Corporation was an employee under the Government or under a body corporate owned or controlled by the Government, shall be allowed employers contribution at the rate specified in sub-regulation (1) from the date of his entry into such service, if,—
 - (i) before the date of such entry into the service he was a subscriber to any provident fund recognised under the Income Tax Act, 1961 (43 of 1961),
 - (ii) the amount payable to him from the Provident Fund Account of the previous employer has been transferred to his Provident Fund Account in the Corporation on a request made in his behalf by the Corporation; and
 - (iii) he subscribes to the Fund at the rate specified in regulation 8 for the period commencing from the date of his entry into such service:
 - Provided that o_n the acceptance of transfer, the Provident Fund of the subscriber shall be governed by these regulations."
- 6. In regulation 11 of the said regulations, after clause (i), the following provise shall be inserted, namely:—
 - "Provided that in the case of a subscriber being an enlisted worker, interest will be allowed and credited to his account at the rate at which it will be allowed and credited to the account of an enlisted worker working in the Bombay Godowus of the Regional Director (Food), Bombay under the Bombay

Foodgrain Workers' (Listed Workers at the Bombay Port and enlisted workers at the Bombay Godowns and rail heads) Contributory Provident Fund Rules, 1966."

- 7. In regulation 15 of the said regulations,
 - (1) in sub-regulation (1), for the figures and letter "2 and 3", the figure and letter "(2) to (5)" shall be substituted;
 - (2) in sub-regulation (2), in clause (b), for the words "or within five years of the completion of his period of probation", the words "or within six years of his entry into the service of the Corporation" shall be substituted;
 - (3) After sub-regulation (4), the following sub-regulation shall be inserted, namely:—
 "(5) When a subscriber has left the service of the Corporation and taken up service under the Government or a body corporate owned or controlled by the Government with liability to subscribe to a Provident Fund recognised under the Income Tax Act, 1961 (43 of 1961), the amount payable to such subscriber subject to any deduction under the provisions of this regulation shall not be paid to him, but shall be remitted for credit to his new Provident Fund Account under the Government or the body corporate, as the case may be, if before payment of such amount a request is made in that behalf by the Government or that body corporate to the Corporation."

[No. F.26-8/68-SG.II.]

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DEVAKI NANDAN GOYAL, Under Secy.

CENTRAL WAREHOUSING CORPORATION

(A Government of India Undertaking)

NOTICE

New Delhi, the 26th August 1968

S.O. 3667.—In exercise of the powers conferred by Rule 13 of the Central Warehousing Corporation Rules, 1963, the name and address of the Director duly elected by the respective class of shareholders under clause (d) of Sub-section (1) of Section 7 of the Warehousing Corporations Act, 1962, to fill in vacancy with effect from 21st August, 1968 caused by the resignation of the Director representing this class of shareholders, is notified below:—

Class of Shareholder

Name of the Director

Other scheduled banks (other than State Bank of Shri B. K. Vora, India) Shri B. K. Vora,

Shri B. K. Vora, Deputy General Manager, Punjab National Bank Ltd., Parliament Street, New Delhi-1.

[No. CWC./XII-1/68-Secy.]

J. P. GOEL,

Chief Executive Officer & Secretary.

केन्द्रीय भाण्डार निगम

(एक भारत सरकारी उद्यम)

ग्रधिसूचना

नई दिल्ली, 26 श्रगस्त, 1968

एस० म्रो० 3668 — केन्द्रीय भाण्डागार निगम नियम 1963 के नियम 13 द्वारा प्रदत्त शक्तियों के प्रयोग में भाण्डागार निगम श्रिधिनयम 1962 की धारा 7 की उप-धारा (1) का खण्ड (ड) के ग्रन्तर्गत सम्बद्ध वर्ग के श्राधारियों द्वारा 21 श्रगस्त 1968 से विधिपूर्वक चुने गये निदेशक का नाम तथा पता नीचे अधिसूचित किया जाता है। यह चुनाव इस वर्ग के ग्रंशधारियों के एक निदेशक के त्यागपत्र के कारण रिक्त स्थान की पृति के लिये हुआ:—

ध्रंशधारियों का वर्ग निदेशक का नाम भ्रन्य भ्रनुसूचित बैं के (स्टेट बँक श्राफ इंडिया के श्री बी० के० वोरा भ्रतिरिक्त) उप महा-प्रबन्धक पंजाब नेशानल बैंक लिमिटेड, पार्लियामैन्ट स्ट्रीट, नंई दिल्ली——1

[स॰ सी॰ डब्स्युट सी॰/XII-1/68-सैकेटरी.]

जे० पी० गोयल

मुख्य कार्यकारी श्रक्षिकारी एवं सचिव ।

MINISTRY OF HEALTH, FAMILY PLANNING AND URBAN DEVELOPMENT

(Department of Health and Urban Development)

New Delhi, the 4th October 1968

S.O. 3669.—In exercise of the powers conferred by sub-section (1) (2) and (3) of section 33C of the Drugs and Cosmetics Act, 1940 (23 of 1940), the Central Government hereby constitutes with effect from 1st October, 1968, an Ayurvedic and Unani Drugs Technical Advisory Board consisting of the following members and appoints the Director General of Health Services as Chairman thereof, namely:—

Ex-officio members under clauses (1) to (iv) of sub-section (2) of section 33C:-

- 1. The Director General of Health Services.
- 2. The Drugs Controller, India.
- 3. The Adviser in Indigenous Systems of Medicine, Ministry of Health, Family Planning and Urban Development (Department of Health and Urban Development).
- 4. The Director of the Central Drugs Laboratory, Calcutta.
- Nominated under clause (vi) of sub-section (2) of section 33C:-
 - Dr. P. N. Mehra, Professor and Head of the Botany Department, Punjab University, Chandigarh.
- Nominated under clause (vil) of sub-section (2) of section 33C:-
 - Dr. (Mrs.) Aseema Chatterji, Head of the Department of Chemistry, University of Calcutta, Calcutta.
- Nominated under clause (viii) of sub-section (2) of section 33C:-
 - Dr. C. S. Uthamaroyan, Principal, Government College of Indian Medicine, Palayamkottai, Tirunelveli.
 - Shri D. A. Kulkarni, Principal, R.M. Degree Ayurvedic College, Koti Bansmandi, Bareilly.
- Nominated under clause (ix) of sub-section (2) of section 33C:— Vaidya Vishwa Nath Dwivedi, Professor, Gujarat Ayurveda University, Jamnagar.

Nominated under clause (x) of sub-section (2) of section 33C:—

Hakim Shakil Ahmed Shamsi, Hakim Abdul Aziz Road, Lucknow-3.

Nominated under clause (xl) of sub-section (2) of section 33C:—

- 1. Vaidya Ram Narain, Managing Director, Shri Baidyanath Ayurved Bhavan Private Ltd., Jhansi.
- 2. Hakim Iqbal Ahmed, Hamdam Dawakhana, Lal Kuan, Delhi-6.

Nominated under clause (xii) of sub-section (2) of section 33C:-

- 1. Vaidya P. Narayana Vaidyan, Madhay Pharmacy, Ernakulam,
- Hakim Yusuf Hussain Khan, "Darul-Awam", 789-Moghulpura, Hyderabad-2.

[No. F.4-1/68-D.]

L. K. MURTHY, Under Secy.

DEPARTMENT OF COMMUNICATIONS

(P. and T. Board)

New Delhi, the 4th October 1968

- S.O. 3670.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules to amend the Posts and Telegraphs (Selection Grade Wiremen) Recruitment Rules, 1967, namely:-
 - (1) These Rules may be called the Posts and Telegraphs (Selection Grade Wiremen) Recruitment Amendment Rules, 1968.
 - (2) They shall come into force on the date of their publication in the Official Gazette.
 - (3) In the Schedule annexed to the Posts and Telegraphs (Selection Grade Wiremen) Recruitment Rules, 1967, in column 8, for the entry "Two years", the entry "Nil" shall be substituted.

[No. 11-18/66-NCG.]

R. M. CHOUDHURY, Assistant Director-General (STN).

(P. & T. Board)

New Delhi, the 4th October 1968

S.O. 3671.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies the 1st November, 1968 as the date on which the Measured Rate System will be introduced in Kurnool Telephone Exchange, Andhra Pradesh.

[No.5-64/68-PHB(4)]

S. P. SRIVASTAVA, Asstt. Director General (PHB).

संचार विभाग

(डाक-तार बोर्ड)

नई दिल्ली, 4 प्रकटूबर 1968

एस० थ्रो० 36 72 --स्थायी आदेश क्रमसंख्या 627 दिनांक 8 मार्च 19 60 द्वारा लागु किये गए 195) के भारतीय तार नियमों के नियम 434 के खंड III के पैरा (क) के अनुभार डाक-तार महा-निदेशक ने करत्ल टेंलीफोन केन्द्र में 1-1 :- 68 स प्रमापित दर प्रणाली लागु करने का निश्चय किया **き**।

[सं० 5/64/68 पी० एव० बी०.] स० प्र० श्रीवास्तव,

सहायक महानिदेशक (पी ०एच० पी०)।

MINISTRY OF INDUSTRIAL DEVELOPMENT & COMPANY AFFAIRS

(Department of Industrial Development)

(Indian Standards Institution)

New Dilhi, the 4th September 1968

S.O.3673.—In exercise of the powers conferred on me under sub-regulation (4) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as smeaded from time to time, mod fications to the provisions of the Indian Standard, details of which are mentioned in the Schedule given hereafter, have tentatively been made with a view to expediting the use of the Standard Mark, without in any way affecting the quality of goods covered by the relevant standard

THE SCHEDULE

Sl. No.	No. and Title of Indian Standard the provi- sions of which have been modified	isting clauses Affec-	Particulars of the me- difications made to the provisions	Date from which the modifica- tions shall come into force	
(1)	(2)	(3)	(4)	(5)	
	IS: 277-1962 Specifi- cation for galvanised steel sheets (plain and corrugated (revised)	2.2, 2.3, 4, 6.1,	Steel sheets made from cold rolled coils have been included in the standard.	10 September 1968	

[No.CMD/13:4]

B. S. KRISHNAMACHAR Acting Director General,

(Department of Industrial Development)

(Indian Standards Institution)

New Delhi, the 13th September 1968

S.O. 3674.—In pursuance of sub-regulation (1) of Regulation 5 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended from time to time, it is, hereby, notified that IS: 879-1956 Indian Standard specification for Sodium nitrite, technical details of which were published under notification number S.R.O 656 dated 18 February, 1957, in the Gazette of India, Part II, Section 3 dated 2 March 1957, has been cancelled.

[No. CMD/13:7.]

New Delhi, the 25th September 1968

S.O. 3675.—In pursuance of sub-rule (1) or rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955 the Indian Standards Institution hereby notifies that the Standards Mark(s), design(s) of which together with the verbal description of the design(s) and the title(s) of the relevant Indian Standard(s) are given in the Schedule hereto annexed, have been specified.

These Standard Mark(s) for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952 and the Rules and Regulations framed thereunder, shall come into force with effect from 1st October, 1968:

THE SCHEDULE

SI. No.	Design of the Standard Mark	Product/Class of Product	No. and Title of the Relevant Indian Stan- dard	Verbal description of the Design of the Standard Mark		
(1)	(2)	(3)	(4)	(5)		
1	IS: 2925	Industrial safety helmets	IS: 2925-1964 Speci- fication for industrial safety helmets	The monogram of the India Standards Institution, consisting of letters 'ISI', drawn in the exact style and relative proportions as indicated in col (2), the number designation of the Indian Standard being superscribed on the top side of the monogram as indicated in the design.		
	IS: 3178	Abrasive emery grain	IS: 3178-1955 Speci- fication for abrasive emergy grain	Do.		
3	IS: 3470	Hexane, food grade	IS: 3470-1966 Specification for hexane, food grade	The monogram of the Indian Standards Institution, consist ing of letters 'ISI' drawn in the exact style and relative propogations as indicated in col (2), the number designation of the Indian Standard being superscribed on the top side of the monogram as indicated in the design.		

[No. CMD/13:9.]

S.O. 3676.—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the marking fee(s) per unit various products, details of which are given in the Schedule hereto annexed, have been determined and fee(s) shall come into force with effect from 1st October, 1968:

THE SCHEDULE

Sl. No.	Product/Class of Product	8 No. and Title of Relevant Indian Standard	Unit	Marking Fee per Unit
(I)	(2)	(3)	(4)	(5)
I	Industrial Safety helmets	IS: 2925-1964 Specification for Industrial safety helmets		5 Paise
2	Abrasive emery grain	IS: 3178-1965 Specification for abrasive emery grain	I tonne	Rs. 1.50
3	Hexane, food grade .	IS: 3470-1966 Spefication for hexane, food grade	1 kl	70 Paise

pases (first revision).

S.O. 3677.—In pursuance of sub-regulation (1) of Regulation 8 of the Indian Standards Institution (Certification Marks),: Regulation, 1955, as subsequently amended, the Indian Standards Institution hereby notify that twenty four licences, particulars of which are given in the Schedule hereto annexed, have been granted authorizing the licences to use the Standard Mark:

	THE SCHEDULE								
Sl. No.	Licence No.	Period of Validity		Name and Address of the	Articles/Process Covered by the licence	Relevant Indian Standard			
		From	То						
(1)	(2)	(3)	(4)	(5)	(6)	(7)			
I	CM/L-1758 1-8-1968	1-8-68	31-7-69	M/s. Usha Martin Black (Wire Ropes) Ltd. Tatisilwai, Ranchi (Bihar State)		IS:3623-1966 Specification for guide and rubbing ropes.			
2	CM/L-1759 1-8-1968	1-8-68	31-7-69	M/s. Usha Martin Black (Wire Ropes) Ltd., Tatisilwai, Ranchi (Bihar State)	Armouring wire for electric cable	s IS:1554 (Part I)-1964 Specifica- for PVC insulated (heavy duty) electric cables for working voltages upto and including I 100 volts.			
3	CM/L-1760 6-8-1968	16-8-68	15-8-69	M/s. Triveni Iron & Steel In- dustries, 28 F, Ravapari Road, Bhaynagar (Gujarat)	Structral steel (standard quality)	IS:226-1962 Specification for structural steel (standard quality (third revision).			
4	CM/L-1761 6-8-1968	16-8-68	15-8-69	M/s. Triveni Iron & Steel Indus- tries, 28 F, Ravapari Road; Bhavnagar (Gujarat)		IS:1977-1962 Specification fo structural steel (ordinary quality).			
5	CM/L-1762 9-8-1968	1-8- 68	31-7-69	M/s. Usha Martin Black (Wire Ropes) Ltd., Tatisilwai, Ranchi (Bihar State) having their Office at 14 Princep Street, Çalcutta-13	engg. purposes	IS:2266-1963 Specification for steel wire engineering purposes. IS:2365-1963 Specification for steel wire suspension ropes for lifts and hoists.			
					(3) Round strand galvanized steel wire ropes for shipping purposes	IS:2581-1968 Specification for round strand galvanized steel-wire ropes for shipping purposes (fort fortifier)			

	Sec. 3(ii)]. THE GAZETTE OF INDIA: OCTOBER 19, 1968/ASVINA 27, 1890 4771
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Ć	6 CM/L-1763 14-8-1968	16-8-68	15-8-69	M/s. National Steel Equipment Horizontal-cylinderical and Co., Opp. Police Training horizontal-rectangular steam School, Naigaum, Dadar, Bom-sterilizer, pressure type bay-14	
7	CM/L-1764 14-8-1968	16-8-68	15-8-69	M/s. National Steel Equipment Water stills for pyrogen-free dis- Co., Opp. Police Training tilled water School, Naigaum, Dadar, Bombay-14	IS:3830-1966 Specification for water stills for pyrogen free distilled water.
3	CM/L-1765 13-8-1968	16-8-68	15-8-69	M/s. P.V.S. Industries, 457-A BHC dusting powders Amarnath village Hospet, TQ having their Office at 3/1 Krishnarajendra Road, Hospet, Bellary Distt.	IS:561-1962 Specification for BHC dusting powders.
9	CM/L-1766 19-8-1968	1-10-68	30-9-69	M/s. Bhopal Toughened Glass Toughened safety glass works, 9 Industrial Estate, Govindpura, Bhopal (M.P.)	IS:2553-1964 Specification for safety glass.
10	CM/L-1767 19-8-1968	1-9 - 68	31-8-69	M/s. Parkash & Co., S/17, Kirtinagar, Industrial Area, New Delhi-15. Ball Valves (Horizontal Plunger Type) Low Pressure, 15 mm size	Ball Valves (Horizontal Plunger Type) Including Floats for water supply pur-
11	CM/L-1768 20-8-1968	16-8-68	15-8-69	M/s. Jayant Metal Manufacturing Hard-Drawn Strandard Alumi- Co., Post Box No. 7009, nium Conductors for over-head 16, Sayani Road, Bombay-28 DD Power Tansmission purposes	IS:398-1961 Specification for
12	CM/L-1769 21-8-1968	20-8-68	31-7-69	M/s. Standard Mineral Products DDT dusting powders Pvt. Ltd., Subhash Nagar, Jogeshwari (East), Bombay-60	DDT dusting powders.
13	CM/L-1770 29-8-1968	1-10-68	30-9-69	M/s. Indo Asian Traders Private Enclosed distribution fuse boards Ltd., Nakodar Road, Juliun- dur-19. 250 volts	IS:2675-1966 Specification for enclosed distribution fuse boards and cutouts for voltage not exceeding 1 000 volts (first revision).
14	CM/L-1771 28-8-1968	1-9-68	31-8-69	M/s. Sandoz (India) Ltd., San- doz Baug Post Office, Kolshet, Thana having their Office at Sandoz House, Dr. Annie Besant Road, Worli, Bom- bay-18	IS:562-1962 Specification for BHC water dispersible powder concentrates.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
t 15	CM/L-1772 29-8-1968	1-9-68	31-8-69	M/s. Fort Wiliam Company Ltd. (Steel Wire & Rope Di- vision), 6/A, G.T. Road, Ko- nnagar (Hooghly) West Bengal having their Office at 14 Netaji Subhas Road, Calcutta-1		IS:398-1961 Specification for hard-drawnstranded aluminium and steel-cored aluminium conductors for overhead power transmission purposes (revised)
16	CM/L-1773 30-8-1968	1-9-68	31-8 -69	M/s. Jindal (India) Private Ltd., 4 Dharamtalla Road, P.O. Belumath, Distt, Howrah having their Office at 2/1 Ahmed Mamji Street, P.O. Liluah, Distt. Howrah	Mild steel tubes	IS:1239-1964 Specification for mild steel tubes and tubulars.
17	CM/L-1774 29-8-1968	16-9-68	15-9-69	M/s. Hindustan Thermostatics, Idgah Road, Ambala Cantt.	General purpose glass thermometers of o—100°C range Schedule 7	IS:2480-1964 Specification for general purpose glass thermometers
18	CM/L-1775 28-8-1968	16-9-18	15-9-69	M/s. Hindustan Thermostatics, Idgah Road, Ambala Cantt.	(i) Butyrometers, 10 percent (ii) Pipette; (a) 11 04-ml milk pipette (b) 10-ml pipette for sulphuric acid and (b) 1-ml pipette for amyl alcohol	IS:1223-1958 Specification for apparatus for the determina- tion of fat in whole milk, evaporated (unsweetened) milk separated milk, skim milk, butter milk and cream by the Gerber method
19	CM/L-1776 29-8-1968	16-9-68	15-9-69	M/s. Metal Udyog Private Limited, Pratapnagar, Industrial Estate, Udaipur (Rajasthan)	DDT emulsifiable concentrates	IS:633-196 Specification for DDT emulsifiable concentrates
20	CM/L-1777 30-8-1968	1 <i>-</i> 9-68	31-8-69	M/s. Indian Steel Rolling Mills Ltd, Main Road, Tiruninravur (Chingleput Distt.) having their Office at 108 Armenian Street, Orient Buildings, Madras-1.		IS:1786-1966 Specification for cold twisted steel bars for concrete reinforcement (re- vised)
21	CM/L-1778 30-8-1968	1-10-68	30-9-69	M/s. Raj Brush Industries, Satya sheel Building , 575/B, Sama- rak Path, Wright Town, Jabal- pur (M.P.).	nishes, 12 to 50 mm only	IS:384-1964 Specification for brushes, paints and varnishes, flat (second revision)

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22	CM/L-1779 30-8-1968	i-5-69	30-4-68	M/s. Indian Smelting & Refinery Co. Ltd, Bombay-Agra Road, Bhandup, Bombay-78	Brass sheets; grades: ČuŽn 37 CuZn 30	1S:410-1967 Specification for rolled brass plate, sheet strip and foil (revised)
23	CM/L-1780 30-8-1968	1 -9-6 8	31-8-69	M/s. Nistarini Electric Co. (P) Ltd., 48-1 G.T. Road, Baid- yabati, Distt. Hooghly, West Bengal	Single-phase electric motors 0.75 KW (1 HP) with class 'A' insulation	IS:996-1964 Specification for single-phase small ac and universal electric motors. (revised)
24	CM/L-1781 30-8-1968	16-9-68	15-9-69	M/s Chettinad Cement Corpn Ltd., Puliyar, Karur Taluk, Trichy, Distt. Madras State	Ordinary portland cement	IS:269-1967 Specification for ordinary rapid-hardening and low-heat portland cement (second revision)
						[No. CMD/13:11] (Dr. A.K. GUPTA) nty Director Genral,

New Delhi, the 26th September 1968

8.0.3678.—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955 the Indian Standards Institution hereby notifies that the marking fee(s) per unit for various products, details of which are given in the Schedule hereto annexed, have been determined and the fee(s) shall come into force with effect from the dates shown against each:

THE SCHEDULE

Sl. No.	Product/Class of Products	No. and Title of Relevant Indian Standard	Unit	Marking Fee per Unit	Date of effect
(1)	(2)	(3)	(4)	(5)	(6)
1	de electric welding generators	IS:2635-1966 Specification for de electric welding generators.	One generator	Rs. 10.00	16 Septem- ber 1968
2	Air-break switches and composite units of air-break switches and fuses for voltages not exceeding 1000 volts.	IS:4064-1967 Specification for normal duty air-break switches and composite units of air-break switches and fuses for voltages not exceeding 1000 volts.	One switch	10 Paise per unit for the first 50,000 units, Paise per unit for the 5 000 Ist unit and above.	I Octob er 1968

[No. CMD/18:2]

S.O. 3679.—In pursuance of sub-rule (2) of rule 4 of the Indian Standards Institution Certification Marks) Rules, 1955, as amended from time to time, it is hereby notified that the standard mark for metal clad switches covered by IS: 1567-1960 Specification for metal clad switches (current rating not exceeding 100 amperes), details of which were published in the Gazette of India, Part II, Section 3(ii), dated 16th September, 1961 under number S.O. 2213, dated 1st September, 1961, has to be treated as rescinded with effect from 1st October, 1968.

[No. CMD/13:9.]

New Delhi, the 3rd October 1968

S.O. 3680.—In continuation of the notification published in the Gazette of India, Part II, Section 3(ii) dated 27th July, 1968 under number S.O. 2657 dated 11th July, 1968 and in pursuance of sub-regulation (i) of regulation 5 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended from time to time, the Indian Standards Institution, hereby, notifies that IS:1567-1960 Indian Standard Specification for Metal Clad Switches (current rating not exceeding 100 amperes), details of which were published in the Gazette of India, Part II, Section 3(ii) dated 24th September, 1960 under number S.O. 2319 dated 16th September, 1960, has been cancelled with effect from 1st October, 1968.

[No. CMD/13:7.]

(Dr.) A. K. GUPTA, Deputy Director General.

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION

(Department of Labour and Employment)

New Delhi, the 8th October 1968

S.O. 3681.—In exercise of the powers conferred by clause (d) of sub-section (1) of section 5A of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Dr. Mohanlal Piramal as a member of the Central Board of Trustees,

Employees Provident Fund vice Shri Gopikisan Piramal resigned, and makes the following further amendment in the notification of the Government of India in the late Department of Social Security No. S.O. 1156 dated the 1st April, 1965, namely:—

In the said notification, for the entry against serial number 21, the following entry shall be substituted, namely:—

"Dr. Mohanlal Piramal, Morarjee Goculdas Spinning and Weaving Company Limited, Dr. Ambedkar Road, Parel, Bombay-12".

[No. 12(2)/68-PF.II.]

S.O. 3682.—In exercise of the powers conferred by the first proviso to section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies that, with effect from the 29th February, 1968, section 6 of the said Act shall, in its application to Messrs Purshottam Cotton Ginning and Pressing Factories, Khamgaon, Maharashtra State be subject to the modification that for the words "six and a quarter per cent" the words "eight per cent" shall be substituted.

[No. 8/103/68-PF.II.]

S.O. 3683.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Purshottam Cotton Ginning and Pressing Factories, Khamgaon, Maharashtra State have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the 29th day of February, 1968.

INo. 8/103/68-PF.II.T

New Delhi, the 9th October 1968

S.O. 3684.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government, having regard to the location of the factories specified in column (4) of the Table below in sparse areas specified in the corresponding entry in column (3) of the said table in the State of Kerala hereby exempts the said factories from the payment of employers' special contribution leviable under Chapter VA of the said Act until the enforcement of the provisions of Chapter V of the said Act in the said areas.

TABLE

Sl. No.	Name of District	:	Name of	Area		Name of the Factory		
(1)	(2)		(3)			(4)		
J.	Alleppey .		Shertallai		·	Kerala Food Packers.		
2.	Ernakulam .		Edappilly		•	Medern Bakeries (India) Limited, (Cochin Unit) N.H. Road.		
3.	Kozlukode	•	V_{emom}			K. V. Substation Section Manantheddy P.O. North Wynad.		
			Kottappadi			K.S.E. Board 66 K. V. Substation. Kuthu-munda, Chundale (P.O.) South Wynad.		
4.	Tilchur .		Pottah			M/s Kerala Industries, Chalakud:		

New Delhi, the 10th October 1968

S.O. 3685.—Whereas M/s. Lewis and Tylor Private Ltd., 2, Brabourne Road, Calcutta-1 (hereinafter referred to as the said establishment) has applied for exemption under clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952);

And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the said Act, and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the said Act, and subject to the conditions specified in the Schedule annexed hereto, the Central Government hereby exempts the said establishment from the operation of all the provisions of the said Scheme and in pursuance of sub-section (3) of the said section 17, the Central Government hereby directs that,—

- (a) the employer in relation to the said establishment shall pay within fifteen days of the close of the month to the Employees' Provident Fund, inspection charges at the rate of 0.09 per cent (zero point zero nine per cent) of the pay (basic wages, dearness allowance, retaining allowance, if any, and cash value of food concession admissible thercon) for the time being payable to the employees of the said establishment who would have become members under the said Scheme but for this exemption;
- (b) the said employer shall invest the provident fund contributions in accordance with the directions issued by the Central Government from time to time.

THE SCHEDULE

- 1. The employer shall submit such returns to the Regional Provident Fund Commissioner as the Central Government may, from time to time, prescribe.
- 2. The employer shall furnish to each employee an Annual Statement of Account or Pass Book.
- 3. All expenses involved in the administration of the Fund including the maintenance of accounts, submission of accounts and returns, transfer of accumulations, payment of inspection charges etc., shall be borne by the employer.
- 4. The employer shall display on the Notice Board of the establishment a copy of the Rules of the Fund as approved by the appropriate Government and, as and when amended alongwith a translation of the salient points thereof in the language of the majority of the employees.
- 5. Where an employee who is already member of the Employees' Provident Fund (Statutory Fund) or the Provident Fund of another exempted establishment is employed in his establishment, the employer shall immediately enrol him as a member of the Fund of the establishment, and accept the past accumulations in respect of such employee and credit to his account.
- 6. The employer shall enhance the rate of provident fund contribution appropriately if the rate of provident fund contribution for the class of establishments in which his establishment falls in enhanced under the Employees' Provident Funds Act, 1952 so that the benefits under the provident fund Scheme of the establishment shall not become less favourable than the benefits provided under the Employees' Provident Funds Act, 1952.
- 7. The establishment shall submit an audited balance sheet of its provident fund every year to the Regional Provident Fund Commissioner within 3 months of the close of the year.
- 8. No amendment of the Rules of the provident fund shall be made without the previous approval of the Regional Provident Fund Commissioner. Where any amendment is likely to affect adversely the interests of the employee, the Regional Provident Fund Commissioner shall, before giving his approval, give a reasonable opportunity to the employees to explain their point of view.

INo. 11/7/68-PF.II.1

S.O. 3686.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government, having regard to the location of the factories specified in column (4) of the Table below, in sparse areas in the corresponding entry in column (3) of the said Table in the State of Rajasthan, hereby exempts the said factories from payment of the employers' special contribution leviable under Chapter VA of the said Act until the enforcement of the provisions of Chapter V of that Act in those areas.

T'ABLE

Serial No.	Name of Di	strict	Name	of Area		Name of the Factory
(1).	(2)		(3)			(5)
1	Ajmer .	,	. Nasirabad		•	M/s Structural Engineering Works I td., Ajmer Water Supply Scheme.
2	Churu .		. Cauru .			M/s. Rajasthan Wersled Spining Mills
3	Jalore .	•	. Jalore .			Power House, Rajasthan State Electricity Board, R/J 2232.
4	Jhalawar .		. Kudayala		•	M/s. Stone Polishing Factory. c/o M/s. Associated Stone Industries Ram- ganj Mandi.
5	Jaipur	7	. Ramgarh . Sanganer .	:		Water Pumping Station, M/s, Vinod Textiles.
6	Malpura .		. Toda Bhim	1.		Rajasthan State Electricity Board.
7	Nagpur .		. Kuchaman	Road		M/s. Sabu Iron Foundry P. D Westeran Railway Station.
8	Sriganganagar	•	. Sadulpur, Hanumang	arh .	•	M/s. Arun Metal Industries. M/s. Sethia Dal Co General Mills, Hanumangarh Town.

[No. F. 6(11)/68-HI.]

New Dehli, the 14th October 1968

S.O. 3687.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to that establishment known as Messrs New Prabhat Silk Mills, Shastri Marg (Agra Road) Near Union Bank, Bhandup, Bombay-78, have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment:

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the Thirty-first day of January, 1968.

[No. 8/141/68-PF-II.]

S.O. 3688.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Ruttonjee and Company Limited, 6, Old Post Office Street, Calcutta-1, have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section I of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the thirty-first day of March, 1968.

S.O. 3689.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Mathews and Company, Automobile Engineers, 39 and 44A Park Mansions, Park Street, Calcutta-16, have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment with effect from the 31st day of October, 1968.

[No. 8/139/68/PF-II.]

S.O. 3690.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Industrial Plastics and Moulding Tools, Leach & Weborny Compound, 61, Off Hains Road, Worli, Bombay-18, have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provision of the said Act to the said establishment,

This notification shall be deemed to have come into force on the 31st day of August, 1968.

[No. 8/124/68/PF.II.]

S.O. 3691.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs P. K. Varughese and Company, Basin Road, Ernakulam, Cochin-11, have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the thirty-first day of August, 1968.

[No. 8/135/68/PF-JI.]

S.O. 3692.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Jothi Art Calendars, Velayutham Road, (including office/branch at Pallivasal Street, Sivakasi, Madras State) have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the 30th day of June, 1968.

[No. 8/133/68-PF-II.]

DALJIT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 9th October 1968

S.O.3693.—In exercise of the powers conferred by section 4 of the Iron Ore Mines Labour Welfare Coss Act 1951 (58 of 1961), read with sub-rule (2) of rule 3 of the Iron Ore Mines Labour Welfare Coss Rules, 1963 and in supersession of the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 2452 dated the 6th July, 1964, the Central Government hereby constitutes an Advisory Committee for the State of Orissa with the following as the members, namely:—

I. Labour Ministe State of Orissa, Bhubaneswar. Chairmar.

 Labour Commissioner. Government of Orissa, Bhubaneswar.

Vice-Chairman

3. Shri Kshetra Mohan Nayak, Member, Legislative Assembly, Orissa, Bhuhaneswar

of the Legislative Member Assembly

4. Shri P. T. K. Panicker, Chief Personnel and Welfare Manager, T.I.S.CO. Jamshedpur.

Representatives of the Iron Ore Mines Owners of Orissa.

5. Shri N. M. Patnaik, Managing Director, Orissa Mining Corporation, Bhubaneswar.

Representatives of Iton Ore Mines Workers of Orissa.

6. Shri C. D. Parida, Barbil Workers' Union, P. O. Barbil, Distr. Keonjhar (Orissa) (INTUC)
7. Shri H. Behara, General Secretary, Keonjhar Mines and Forest Workers' Union Barbil (Orissa) (AITUC)

Woman representative.

8. Dr. Sarbjini Pradhan, C/O Dr. Madan Mohan Pradhan, Cuttack.

Secretary.

9. The Wilfare Administrator, Iron Ore Mines Labour Welfare Fund, Orsisa, Bhubaneswar.

[No. F./10/6/67-MIII]

12. The Headquarters of the Advisory Committee shall be at Bhubaneswar.

श्रम, नियोजन ग्रौर पुनर्वास मंत्रालय (श्रम ग्रौर मियोजन विभाग)

नई दिल्ली, 9 श्रवटबर 1968

एस०म्रो० 3694—-लोह प्रायस ह खान श्रामिक कल्याण उपकर नियम, 1963 के नियम 3 के उपनियम ্র(2) के साथ पठित लोह प्रयस्त खान श्रमिक कल्याण उपकर प्रधिनियम, 1961 (1961 का 58) की धारा 4 द्वारा प्रदत्त सक्तियों का प्रयोग करते हुए ग्रीर भारत सरकार के भूतपूर्व श्रम ग्रीर नियोजन मंत्रालय की श्रधिपूचना सं० का० श्रा० 2452 तारीख 6 जुलाई, 1964 को श्रतिष्ठित करते हुए केन्द्रीय सरहार, उड़ीना राज्य के लिए एक सजाहहार उमिति एउद्द्वारा मध्ति करती है ∵जिसके निम्त्रलिखित सदस्य होंगे, श्रर्थातु :----

- श्रम मंत्री, उड़ीसा राज्य, भवनेश्वर —-ग्रध्यक्ष
- 2. श्रम श्रायुक्त, उड़ीसा सर तार, भुवनेश्वर—-उपाध्यक्ष
- 3. श्रीक्षेत्र मोहन नाय ह, सदस्य, विधान—विधान समा सदस्य समा, उड़ीसा, भ्वनेस्वर ।
- .4. श्री पी० टी० के० पणिककर, मुख्य कार्मिक एवं कल्याण प्रबन्धक, टाटा आयरन एण्ड स्टील कं०, जमभोदपूर ।
- <u>्र</u>5. श्री एन० एम० पटनाय हे, प्रबन्ध निदेश के, उड़ीता खनन निगम, भ्वनेश्वर ।

उड़ीसा के लोह अयस्य खान स्वामियों प्रतिनिधि

- 6. श्री सी० डी० परिड़ा, बड़बिल कर्मकार संघ, डा० खा० वड़बिल, जि० केंजंझर (उड़ीसा) (इंडियन नेशनल ट्रेड यूनियन कांग्रस)
- 7. श्री एच० बेंहेरा, महा सचिव, केउंझर, खान एवं वन कर्मतार संघ, बड़बिल (उड़ीसा) (ग्राल इंडिया ट्रेड यूनियन कांग्रेस)

उड़ीसा के लोह प्रयस्त खान कर्मतारो के प्रतिनिधि ।

- छा० सरोजिनी प्रधान, द्वारा डा० मदन-—महिला प्रतिनिधि मोहन प्रधान, कटक ।
- कल्याण प्रशासक, लोह श्रवस्त खान—प्रचिव श्रमिक कल्याण निधि, उड़ीसा, भवनेख्वर ।
- 2-सलाहकार समिति का मुख्यालय भवनेश्वर में होगा।

[सं० फा० 10/6/67-२० 3] के० डी० हजेला, अवर सचिव ४

New Delhi, the 11th October 1968

- S.O. 3695.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following Scheme further to amend the Madras Dock-Workers (Regulation of Employment) Scheme, 1956, the same having been previously published as required by the said sub-section, namely:—
 - This Scheme may be called the Madras Dock Workers (Regulation of Employment) First Amendment Scheme, 1968.
 - 2. In Clause 10 of the Madras Dock Workers (Regulation of Employment)-Scheme, 1956, after item (e), the following item shall be inserted, namely:—
 - "(f) make appointments to the posts, the maximum salary of which exclusive of allowances is not more than five hundred and seventy-five rupeesper month".

[No. 65/10/68-Fac.H-5.]

- S.O. 3696.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following Scheme further to amend the Bombay Dock Workers (Regulation of Employment) Scheme, 1956, the same having been previously published as required by the said sub-section, namely:—
- 1. This Scheme may be called the Bombay Dock Workers (Regulation of Employment) First Amendment Scheme, 1968.
- 2. In Clause 10 of the Bombay Dock Workers (Regulation of Employment) Scheme, 1956, after item (d), the following item shall be inserted, namely:—
 - "(e) make appointments to the posts, the maximum salary of which exclusive of allowances is not more than five hundred and seventy five rupces per mensem".

[No. 65/10/68-Fac.II-1.]

S.O. 3697.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following Scheme further to amend the Calcutta Dock

Workers (Regulation of Employment) Scheme, 1956, the same having been previously published as required by the said sub-section, namely:—

- 1. This Scheme may be called the Calcutta Dock Workers (Regulation of Employment) First Amendment Scheme, 1968.
- 2. In Clause 10 of the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, the following item shall be inserted, namely:—
 - "(f) make appointments to posts, the maximum salary of which exclusive of allowances is not more than five hundred and seventy-five rupecs per mensem".

[No. 65/10/68-Fac, II-3].

- S.O. 3698.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following Scheme further to amend the Mormugao Dock Workers (Regulation of Employment) Scheme, 1956, the same having been previously published as required by the said sub-section, namely:—
- 1. This Scheme may be called the Mormugas Dock Workers (Regulation of Employment) First Amendment Scheme, 1968.
- 2. In Clause II of the Mormugao Dock Workers (Regulation of Employment) Scheme, 1965, after item (e), the following item shall be inserted, namely:—
 - "(f) make appointments to the posts the maximum salary of which exclusive of allowances is not more than five hundred and seventy-five rupees per month."

[No. 65/10/68-Fac. II-4].

- S.O. 3699.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock' Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following Scheme further to amend the Cochin Dock Workers (Regulation of Employment) Scheme, 1956, the same having been previously published as required by the said sub-section, namely:—
- 1. This Scheme may be called the Cochin Dock Workers (Regulation of Employment) First Amendment Scheme, 1968.
- 2. In Clause 10 of the Cochin Dock Workers (Regulation of Employment) Scheme, 1959, after item (e), the following item shall be inserted, namely:—
 - "(f) make appointments to the posts the maximum salary of which exclusive of allowances is not more than five hundred and seventy-five rupees per month."

[No. 65/10/68-Fac.II-2.]

- S.O. 3700.—In exercise of the powers conferred by sub-section (1) and (2) of section 8 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948) the Central Government hereby makes the following rules further to amend the Dock Workers (Regulation of Employment) Rules, 1962, namely:—
- 1. These rules may be called the Dock Workers (Regulation of Employment) Second Amendment Rules, 1968.
- 2. In rule 3 of the Dock Workers (Regulation of Employment) Rules, 1962, to sub-rule (2), the following proviso shall be added, namely:—
 - "Provided that in the case of a Board established at any other port, the Central Government may appoint either a whole-time for a part-time Deputy Chairman on such terms and conditions as that Government many determine."

[No. 63/30/68-Fac. II].

(Department of Labour and Employment)

New Delhi, the 10th October 1968

S.O. 3701.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Assam Railways and Trading Company Limited, Margherita, Assam and their workmen, which was received by the Central Government on the 7th October, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 93 OF 1967

PARTIES:

Employers in relation to the Assam Railways and Trading Company Limited,

 $\mathbf{A}_{\mathbf{ND}}$

Their workmen.

PRESENT:

Shri B. N. Banerjee, Presiding Officer.

APPEARANCES:

On behalf of Employers-Shri A. Rahman Chief Personnel Officer.

On behalf of Workmen—Shri S. Das Gupta, Secretary, Indian National Mine-Workers' Federation.

STATE: Assam.

INDUSTRY: Coal Mines.

AWARD

By Order No. 1/44/67-LRII, dated December 4, 1967, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following dispute between the employers in relation to the Assam Railways and Trading Company Limited, Margherita, Assam, and their workmen, to this tribunal, for adjudication, namely:

- "Whether the management of Messrs. Assam Railways and Trading Company Limited, Post Office Margheritta, Assam, was justified in not supplying at concessional rates the full quantum of rice and atta to the workmen in their four Collieries, namely, Baragolai, Tipong, Ledo and Namdang, in terms of the award of the Central Government Industrial Tribunal Dhanbad, in Reference No. 44 of 1960, published with the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 2955, dated the 7th December, 1961 during the weeks commencing on 27th September, 1965, 4th October, 1965 atth October, 1965, 18th October, 1965, 25th October, 1965, 1st November, 1965, 8th November, 1965, 15th November, 1965, 22nd November, 1965, 29th November, 1965, 6th December, 1965, 13th December, 1965, 20th December, 1965, 27th December, 1965, 3rd January, 1966, 10th January, 1966, 17th January, 1966, 21st February, 1966, 21st March, 1966, 9th May, 1966, 16th May, 1966, 23rd May, 1966, 11th July, 1966, 12th September, 1966, 19th September, 1966, 10th October, 1966, 31st October, 1966, 14th November, 1966, 12th December, 1966 and 19th December, 1966? If not, to what relief are the workmen entitled?"
- 2. On behalf of the workmen, there was a written statement filed by their trade union, known as the Assam Colliery Mazdoor Congress, which again is affiliated to a bigger union known as the Indian National Mine Workers' Federation. There was also a written statement filed on behalf of the employer company, Assam Railways and Trading Company Limited. Admittedly, the employer company no longer owns any railway, which it used to do in the past; at present the company owns several collieries, known as Bargolai, Namdang, Tipong and Ledo collieries, all in Assam.
- 3. In Annexure E to the written statement filed on behalf of the workmen, in addition to the several weeks mentioned in the Order of Reference, six more weeks were included as falling within the disputed period, namly, the week commencing on July 18, 1966, August 14, 1966, September 26, 1966, October 16, 1966, November 6, 1966 and November 21, 1966. In respect of six other weeks, namely, weeks commencing on February 14, 1966, February 21, 1966, May 9, 1966, May 16, 1966, May 23, 1966 and July 11, 1966, no particulars of short supply in foodgrains were furnished in the written statement. it

being noted "details will be furnished later". During the course of hearing, however, the six weeks not covered by the order of reference, which were included in Annexure E to the written statement, were admitted to have been wrongly included and the claim in respect of these weeks were not pressed. In respect of two weeks commencing on February 14 and February 21, 1966, the short supply in 'Atta' was said to be respectively 50 per cent and 25 per cent. This was admitted to be so by the employer company. For the four weeks commencing on May 9, May 16, May 23 and July 11, 1966, the short supply in rice was said to be 50 per cent. This was also admitted to be so by the management. The further admitted position was that since the week commencing on December 19, 1966, the employer company switched over to cash payment in lieu of grains supply.

- 4. That the employer company is liable to supply foodstuff to the workmen at concessional rates does not appear to be in dispute. In paragraph 5 of the written statement filed by the employer company it is stated:
 - "During the Second World War the company undertook to supply foodstuffs at concessional rates to their workmen voluntarily under special circumstances to meet the emergencies during the war. The Company continued the said system of supplying some items of foodgrains, namely, rice, atta, dal and mustard oil to the workmen at concessional rates until the same was withdrawn as hereinafter stated."

When in 1954, the Government of India constituted an All India Industrial Tribunal to adjudicate upon disputes on the wages and other conditions of service in collieries throughout India, the employer company and its workmen were parties before the adjudication-Aggrieved by the award made by the said tribunal, the company and the tribunal both preferred appeals before the Labour Appellate Tribunal, which were registered as Appeal No. 175 of 1956 and Appeal No. 185 of 1956. On December 7, 1956, while the said appeals were pending, the Company and its workmen filed a petition of compromise before the tribunal and settled the dispute. One of the terms of settlement was:

"Sale of rations at concessional rates will continue as at present but all those who are entitled to heavy workers ration cards will draw one seer of rice in addition to the present scale."

The Labour Appellate Tribunal made an award, in terms of the settlement, so far as the applicants were concerned.

- 5. The next dispute between the employer company and its workmen over wages, etc., arose in 1959-60. At the conciliation proceeding which was held, there was an agreement arrived at on July 31, 1959, but the agreement ended in disagreement over the implementation thereof. The dispute was then referred before a tribunal, ultimately presided over by Mr. Salim Merchant. The scope of the reference was:
 - "Determination of the wage structure of all the workmen employed in the collieries of Assam Railways and Training Company Limited in terms of the settlement dated 31st July, 1959."

In paragraph 11 of the written statement, the employer stated:

- "The said Merchant Tribunal while dealing with the question of basic wage scales and dearness allowance took notice of the fact that the agreement dated 7th December, 1956 which provided for the sale of foodgrains at concessional rates would continue in the company's collieries.***"
- 6. In this reference it is necessary for me to decide two preliminary points, one of them a jurisdictional point. The attitude taken by the employer company is that irrespective of what has been stated in the written statement as to merits, the case of the company will stand or fall on the jurisdictional point. As such no evidence was adduced either on behalf of the employer company or on behalf of the workmen. The preliminary point urged by the employer company was that non-implementation of the Merchant Tribunal award in Reference No. 44 of 1960, if any at all, could not be the subject-matter of a fresh reference under Section 10 of the Industrial Disputes Act. For such non-implementation, it was contended, the remedy lay either in Section 33C or under Section 29 of the Industrial Disputes Act.
- 7. The Industrial Disputes Act. 1947, as originally enacted, did not contain any speedy remedy for individual employees enabling them to enforce their existing rights. In other words, there was no remedy available to employees, who did not seek to raise an industrial dispute, but wanted only to implement or enforce their existing rights. This situation was sought to be met by incorporating Section 20 in the Industrial Disputes (Appellate Tribunal) Act, 1950, since repealed, which provided for recovery of money due from the employer under an award or decision. This provision to a certain extent filled up the lacuna, which was discovered in the Industrial Disputes Act itself. The Industrial Disputes

(Appellate Tribunal) Act, 1950, as already stated, was repealed, and after some more legislative experimentations, Section 33C was incorporated in the Industrial Disputes Act by the Industrial Disputes (Amendment and Miscellaneous Provisions) Act. 1956. That Section, as originally introduced, was not very satisfactory and had to be amended in certain respects by the Industrial Disputes (Amendment) Act, 1964. Section 33C as it now stands reads:

- "33C(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter VA, the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:
- Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer:
- Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.
- (2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rule that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government.
- (3) *****
- (4) ******
- (5) ******."
- 8. It was contended before me on behalf of the employer company that an industrial dispute under Section 2(k) of the Industrial Disputes Act, means:
 - "any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the condition of labour, of any person."

Non-implementation of an award, it was contended, does not fall within the definition of industrial dispute. If anybody commits any breach of any settlement or award then, it was further contended, he may be penalised under the provisions of Section 29 of the Industrial Disputes Act, which reads:

"Any person who commits a breach of any term of any settlement or award, which is binding on him under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and the Court trying the offence, if it fines the offender, may direct that whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such breach."

It was also contended that after incorporation of Section 33C in the Industrial Disputes Act, for non-implementation of benefits of an award, the remedies available were all under Section 33C of the Act. It was, therefore, argued that, in the instant case, the circumstances were not such, as required the Government of India to exercise its powers under Section 10(1)(d) of the Industrial Disputes Act and to make a reference to this tribunal. In support of the above contention, reliance was placed on a decision of the Calcutta High Court in Graham Trading Company (India) Limited v. Second Industrial Tribunal, 1963 II LLJ 153 and also on an award of the Third Industrial Court, West Bengal, Newman (W) & Co. Ltd., v. Bijoy Ballav Sett and others, 1957 II LLJ 389.

9. Now, in this case there is no dispute that the employer company was bound to supply foodgrains at concessional rates to the workmen in terms of the Merchant Tribunal Award. There is further no dispute that during the weeks mentioned in the order of reference the employer Company failed to supply the full quantity of foodgrains, at concessional rates, as they were bound to do under the award. The quantum of deficiency in supply is not also now in dispute, because the little difference that existed has already been ironed out. The present position is that the employer company has failed to implement its obligation under the award. This non-implementation, in my opinion, cannot be treated as a fresh industrial dispute. For non-implementation of the award, the person

or persons in breach may be penalised both with imprisonment and fine and the fine may be utilised in compensating the persons injured. This is under Section 29 of the Act. Further, under Section 33C(2) of the Act where any workman is entitled to any benefit which is capable of being computed in terms of money, then such computation may be made by a Labour Court and the decision of the Labour Court may be enforced by the Government by certificate procedure as indicated under Sub-section (1) of Section 33. Mr. Das Gupta, who appeared for workmen, could not successfully meet the preliminary objection raised by Mr. Rahaman appearing on behalf of the employer company.

- 10. In the view expressed by me, I have to hold that since the non-implementation does not satisfy the test of an industrial dispute the reference is not a competent Reference under Section 10 of the Industrial Disputes Act. In the result, the workmen are not entitled to any relief in the present reference.
- 11. The other preliminary objection raised is not a jurisdictional objection but a formal one. It was contended that the Indian National Mine Workers' Federation was not a trade union of the workmen of the employer company and that trade union could not file written statement on behalf of the workmen. The heading of the written statement reads like this:

"Written statement of the workmen represented by the Union through the Federation in the above matter."

In the cause title the Assam Colliery Mazdoor Congress is described as the "union" and the Indian National Mine Workers' Federation is described as "Federation". It appears from the power filed before me and the letter heads used in different correspondence that the Assam Colliery Mazdoor Congress is affiliated to Indian National Mine Workers' Federation. The Federation, therefore, satisfies the requirements of Section 36(1)(b) of the Industrial Disputes Act and there cannot be any objection to the Federation filing the written statement on behalf of the Assam Colliery Mazdoor Congress which is the trade union of the workmen with whom I am concerned in this reference. I therefore overrule the second preliminary objection.

12. In the view already expressed, the workmen are not entitled to any relief in this reference and I award accordingly.

(Sd.) B. N. BANERJEE,

Presiding Officer.

[No. 1/44/67-LRII.]

S.O. 3702.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the Pure Kustore Colliery of Messrs. Pure Kustore Collieries Company Limited, Post Office Kusunda, District Dhanbad and their workmen, which was received by the Central Government on the 7th October, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2)
AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 127 of 1967

In the matter of an industrial dispute under Section 10(1) (d) of the Industrial Disputes Act, 1947

PARTIES:

Employers in relation to the Pure Kustore Colliery of Messrs. Pure Kustore Collieries Company Limited, Post Office Kusunda, District Dhanbad,

AND

Their workmen.

Dated, September 27, 1968.

APPEARANCES:

For the employers: Shri S. S. Mukherjee, Advocate.

For the workmen: Shri B. Lall, Advocate.

STATE ; Bihar. INDUSTRY: Coal.

Dhanbad, 18th September, 1968/27th Bhadra, 1890 Saka

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Pure Kustore Colliery of Messrs. Pure Kustore Collieries Company Limited, Post Office Kusunda, District Dhanbad and their workmen, by its order No. 2/34/66-LRII, dated 22nd March, 1966 referred to the Central Government Industrial Tribunal Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication of the dispute in respect of the matters specified in the Schedule annexed thereto. The Schedule is extracted below:

SCHEDULE

"Whether the stoppage of work of the following wagon loaders by the management of the Pure Kustore Colliery of Messrs. Pure Kustore Collierics Company Limited with effect from the 4th May, 1964, was justified? If not, to what relief are these workmen entitled?"

- (1) Shri Basudeo Bhar, (2) Shri Rajdeo Bhar,
- (3) Shri Molai Koiri,
- (4) Shri Bilash Kahar,
- (5) Shri Chandra Kahar,
- (6) Shri Sunai Kahar,
- (7) Shri Prem Bhar,(8) Shri Nichru Bhar,
- (9) Shri Sibkalu Bhar,
- (10) Shri Pujan Yadav, and
- (11) Shri Sidheswar Bhar."
- 2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 61 of 1966 on its file. Employers as well as the workmen filed their statement of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII, dated 8th May, 1967. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 127 of 1967.
- 3. The case of the workmen in brief is this: The employers have deliberately victimised the 11 affected workmen for being members of Khan Mazdoor Congress and for their trade union activities. The Conciliation Officer's findings and observations are not detrimental to the reference and the Central Government has unfettered power to make the reference. To the 11 affected workmen payment was not being made individually but through a sirdar and as a result of the complaint to the Regional Labour Commissioner (Implementation) (Central) Dhanbad, individual payment was started by the employers with effect from 2nd May, 1964. When the sirdars were not able to exploit workmen they got provoked and as a measure of reprisal they prevailed upon the employers to stop the 11 affected workmen illegally from work with effect from 4th May, 1964. The list of names of permanent wagon loaders maintained by the management is not genuine. The employers took the pleas that the dispute involved in the reference is not an industrial dispute, that the Conciliation Officer had already found the case of the workmen as devoid of substance, that all the 11 affected workmen were casual wagon loaders, that on 4th May, 1964 the 11 affected workmen were not provided with work as there was none available, that these casual wagon loaders started obstructing the loading of wagons by permanent wagon loaders by throwing away the ladders from the wagons and as such the employers had informed the police regarding this high-handedness of the casual wagon loaders and that the employers, being under no legal obligations to provide casual wagon loaders with work, were justified in not giving work to the 11 affected workmen with effect from 4th May, 1964. The workmen were represented by Shri B. Lall, Advocate and the employers by Shri S. S. Mukherjee, Advocate. On admission by the employers Exts. W1 and W2 were marked for the workmen. On behalf of the workmen 2 witnesses were examined and Exts. W3 to W7 were marked. The employers examined a witness and marked Exts, M1 to M9, M9(a) to M9(f) and W.8. Shri S. S. Mukherjee, the learned Advocate for the employers made a statement that he does not press the objections (1) that the dispute involved in the reference is not an individual dispute, (2) that the findings and observations of the Conciliation Officer (C) have adverse effect on the reference and (3) that the dismissal of the affected workmen was the result of the misconduct committed by them on 4th May, 1964 by throwing away the ladders from the wagons and obstructing

the loading work. Thus, the only question remaining for determination is whether the 11 affected workmen were casual workmen and if so, whether the employers were justified in stopping them from work with effect from 4th May, 1964.

- 4. The argument of Shri S. S. Mukherjee, the learned advocate for the employers is that as per order 24 of the Certified Standing Orders, Ext. W8, the empolyers were empowered to terminate services of their temporary employees without any notice, that the 11 affected workmen were temporary workmen for the purpose of the order and that the work "temporary" is synonymous with the word "casual". It is true that the employers as per the order could terminate services of their "temporary" employees, but I am not able to see how the word "temporary" can be synonymous with the word "casual". In the Certified Standing Orders, Ext. W8 there is no definition of the "casual" workman. The definition of a "temporary" employee is provided in order 1(j) as to "one who is engaged for work which is of an essentially temporary character or which is likely to be finished within a period not exceeding 6 months". Admittedly, the affected workmen were wagon loaders. It cannot be said that the work of wagon loading is of a temporary character, inasmuch as the wagon loading work is to continue as long as the work of winning coal at the colliery is to continue. There is also definition of a "badli" or "substitute" employee provided in order 1(i) of the Certified Standing Orders, Ext. W8, saying that he "is one who is appointed in the post of a permanent employee or probationer who is temporarily absent". It is not the case of the employers that the 11 affected workmen were appointed in place of permanent employees or probationers. Consequently, the affected workmen cannot be brought within the definition of "badli" or "substitute" employees. As the 11 affected workmen were casual employees and not "temporay", "badli" or "substitute", their services could not be terminated under order 24 of the Certified Standing Orders, Ext. W8 as contended on behalf of the employers.
- 5. Now let me proceed with the case assuming that "temporary" and "casual" are synonymous words. The employers have admitted that the 11 affected workmen were their employees and that they have terminated their services with effect from 4th May, 1964. But they have pleaded that the 11 affected workmen were "casual" or "temporary" employees. Thus, the onus was lying on the employers to prove that the 11 affected workmen were "casual" or "temporary" employees. They have examined on their behalf only one witness, MW.1, who was during the year 1964 the Welfare Officer of the colliery of the employers. After speaking about some registers and documents, Exts. M1 to M5, the witness deposed that he has compiled a list of the 11 affected workmen, casual wagon loaders, showing the dates of their appointment, number of days worked by them and dates of their termination. In para 12 of their written statement the employers have categorically stated that they were justified in not giving work to the 11 affected workmen with effect from 4th May, 1964. MW1 also says that on 4th May, 1964 the employers had no wagons to provide to the affected workmen. But in Ext. M6 dates of termination of services of the 11 affected workmen are shown in the last column which show that the services of the 11 affected workmen were not terminated on 4th May, 1964 but long before it. The dates range from 6th April, 1964 to 27th April, 1964. It is not comprehensible how the employers could say that services of the 11 affected workmen were prenensione now the employers could say that services of the 11 affected workmen were terminated with effect from 4th May, 1964. MW, 1 says that he has prepared the list, Ext. M6 from the Form B and bonus registers. Exts. M1 and M2 are respectively Form B and bonus registers. Form B register, Ext. M1 is for the months January to June 1964. It contains names of 58 employees. MW1 says that on 4th May, 1964 there were 58 permanent wagon loaders and that names of all the permanent wagon loaders are given in Form B register Ext. M1. As there are only 58 names in Form B register, Ext. M1 it follows that all the 58 were permanent wagon loaders. But names of all the 11 affected workmen can be found in the register. When confronted with this position the witness, MW. 1 stated in his cross-examination that Ext. M1 is only for casual wagon loaders and not for permanent wagon loaders. The name of the first workman in Ext. M1 register is of Shri Deba Bhuia. But his name is found at Sl. No. 29 in Ext. M4, which is said to be a list of the 58 permanent wagon loaders as spoken to by MWI. Shri Deba Bhuia being a permanent wagon loader as per the list, Ext. M4, how his name could appear at Sl. No. 1 in the Form B register, Ext. M1, which the witness, MW1 says contains names of only casual wagon loaders? It is argued for the employers that the witness was confused when he gave the evidence. Firstly, the witness is of age 55 years and has been the Secondly, the Form B Welfare Officer and as such the contention is not convincing. register, Ext. M1 must either contain names of permanent wagon loaders or of temporary wagon loaders, because the case of the employers is that they had only 58 permanent wagon loaders. If the 58 names mentioned in Form B register, Ext. M1 are of all the 58 permanent wagon loaders there is no explanation how names of the 11 affected workmen, who are said to be casual wagon loaders could appear in it, and, if the Form B register, Ext. M1 cantains names only of casual wagon loaders there is no explanation how the name of a permanent wagon loader, Shri Deba Bhula could appear in it. The witness, MW1 tried to explain that the list, Ext. M4 was prepared on 12th November, 1965, while

the regiser, Ext. M1 was perpared in 1964 and by the time Ext. M4 was prepared some of the casual wagon loaders had become permanent. It means that Shri Deba Bhuia mentioned at Sl. No. 1 in the register, Ext. M1 was a casual wagon loader in 1964 and the list of the 58 permanent wagon loaders? The witness, MW1 says that he had prepared the list, Ext. M4 from the Form B register, Ext. M1 and the bonus register, Ext. M2. If the Form B register, Ext. M1 contained names of only casual wagon loaders, there is no explanation how MW. 1 could prepare the list of permanent wagon loaders from it. The bonus register, Ext. M2 contains names of so called casual wagon loaders as well as a casual wagon loaders. No whore is it mentioned in the house register. Ext. M2 that permanent wagon loaders. No where is it mentioned in the bonus register, Ext. M2 that a wagon loader mentioned in it was a permanent or casual. So, how could MW1 prepare the list of permanent wagon loaders, Ext. M4 with the help of the bonus register? No explanation is forthcoming. This is not the first occasion when the employers prepared lists of the so-called casual wagon loaders and permanent wagon loaders and submitted them. Ext. W2 is a letter from the Regional Labour Commissioner (C), (Implementation) dated 2nd September, 1965, addressed to the Manager of the colliery of the employers. It was in respect of the dispute that the employers had arbitrarily stopped the first affected workman and 9 others from working. The letter says that the Labour Inspector (Central) Implementation, enquired into the matter on 6th August, 1965 in the light of materials furnished in the letter of the employers dated 9th October, 1964 and information furnished by them to the Conciliation Officer (C) Dhanbad I. The Labour Inspector had also gone through the list of casual wagon loaders and the list of 58 permanent wagon loaders. furnished by the employers and interrogated a few of the workmen, casual and permanent wagon loaders. It is then pointed out that Shri Motelal did not work as a wagon loader at all at any time during last 3 years, Smt. Tilia Kamin had married and gone out of the colliery some 2 years ago, that Sarvashree Munrik, Kari Pal and Prem Singh were not in the colliery since last 1½ years and yet the names of the above workmen were shown in the list of permanent wagon loaders. It is further pointed out that some of the permanent wagon loaders went home with or without leave putting their own relatives or other workmen in their places and such other workmen were allowed by the employers to work against the vacancies of the permanent incumbents though they were themselves neither permanent nor temporary. On these and other grounds the Regional Labour Commissioner (C) concluded that the list of the 58 permanent wagon loaders submitted by the employers was not correct. The employers sent a reply, Ext. M5 to the above letter trying to explain the objections resided by the Positive employers was not correct. The employers sent a reply, Ext. M3 to the above letter trying to explain the objections raised by the Regional Labour Commissioner (C). But no explanation appears to be satisfactory. The case of the workmen is that the affected workmen have been working since more than 3 years. MW1 has prepared a list of the 11 affected workmen, Ext. M6 showing the dates of their appointment and the number of days they had worked. MW1 says that he had mentioned the number of days worked in Ext. M6 with the help of Exts. M2 and M8. Ext. M2 is the bonus register and Ext. M8 is the bonus register. Both of them show actual attendance of the is the Form G Leave Account register. Both of them show actual attendence of the workmen. MW1 says that Ext. M8 is prepared from the wage-sheet registers, Ext. M9 workmen. Mw1 says that Ext. Mo is prepared from the wage-sheet registers, Ext. Mo series. Wage-sheets cannot show the wages paid to the affected workmen, because there was a dispute on behalf of the workmen that their wages were not paid to them individually but were paid through sirdar and the sirdar in his term used to pay them. Ext. W. 1, a letter from the Regional Labour Commissioner (C) Implementation, Dhanbad, dated 29th April, 1965 to the Secretary, Khan Mazdoor Congress says that the allegation that the wagon loaders employed in the colliery were not paid their wages individually but through the sirder, was correct and that the employers had assured that henceforth wages would be paid individually to the wagon loaders. MW1 says that in column "total days" figures are put on information furnished by the loading clerk, who maintains his own register. Neither this loading clerk is examined nor his register is produced. MW1 conceeded that the attendance register is maintained for wagon loaders and it is a common register for the casual as well as permanent wagon loaders. On 9th May 1968 the workmen made an implication calling for several documents from the employers and among them was the attendence register concerning wagon loaders from 1st January, 1962 to 15th May, 1964. But the employers, in spite of the order of the Tribunal did not produce it and simply stated that they are not raceable. In spite of demand the employers also did not produce Form B register for 1963. The attendence and Form B registers could show the actual date of appointment of the 11 affected workmen and the attendence put in by them. MW 1 has in his evidence that Ext. M1 produced in the Tribunal is carried forward and prepared from the Form B register for 1963. So, the Form B and attendence registers from 1st January, 1962 were of considerable importance. It is significant to note that, as conceeded by MW1, Form 18 1993 store for 1963 was produced before the Conciliation Officer (C) by him. The infercine is interesting the registers contain material favourable to the workmen. I do not see what evidence the workmen could produce to show that the 11 affected workmen were not casual wagon loaders but were permanent wagon loaders, the attendance register is maintained for wagon loaders and it is a common register for the 11 affected workmen were not casual wagon loaders but were permanent wagon loaders, when all the documentary evidence was in possession of the employers themselves. MWI has conceeded that there was no practice of the employers issuing even letters of appointment either to permanent or temporary workmen or wagon loaders. On this material I have no hesitation to find that the 11 affected workmen were not "casual" wagon loaders as pleaded by the employers and as such there was no justification whatsoever for the employers to stop them from working with effect from 4th May, 1964. On behalf of the workmen an application was submitted on 9th May, 1968 to correct the name of the affected workman Shri Bilash Kahar at Sl. No. 4 in the schedule to the reference as Shri Kailash Kahar. The employers did not dispute the application and in the bonus register, Ext. M2 the name is mentioned as Kailash Kahar. This is only a misdescription and not nondescription. The name is corrected accordingly.

- 6. I, therefore, hold that the stoppage of work of the following wagon loaders by the management of the Pure Kustore Colliery of Messrs Pure Kustore Collieries Company Limited with effect from 4th May, 1964 was not justified, and consequently, the affected workmen are entitled to their wages, emoluments and other benefits with effect from 4th May, 1964 as though their services were continuous.
 - (1) Shri Basudeo Bhar,
 - (2) Shri Rajdeo Bhar.
 - (3) Shri Molai Koiri.
 - (4) Shri Kailash Kahar.
 - (5) Shri Chandra Kahar.
 - (6) Shri Sunai Kahar. (7) Shri Prem Bhar.
 - (8) Shri Nichru Bhar.
 - (9) Shri Sibkalu Bhar.
 - (10) Shri Pujan Yadav, and
 - (11) Shri Sidheswar Bhar.

The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act. 1947.

(Sd.) N. VENKATA RAO,

Presiding Officer,

Central Govt. Industrial Tribunal (No. 2) at Dhanbad.

[No. 2/34/66-LRII.]

New Delhi, the 11th October 1968

S.O. 3703.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Presiding Officer, Central Government Industrial Tribunal (No. 2), Dhanbad, in the matter of an application under section 33A of the said Act, from Shri Durga Orang, Pump Mazdoor, represented by Shri S. V. Acharior, General Secretary, Hindustan Khan Mazdoor Sangh, Hend Office Murulidih, Post Office Mohoda, District Dhanbad, which was received by the Central Government on the 7th October, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT;

Shri Nandagiri Venkata Rao, Presiding Officer.

COMPLAINT No. 4 of 1968

In the matter of a complaint under Section 33A of the Industrial Disputes Act, 1947.

PARTIES:

Shri Durga Orang Pump Mazdoor, Balihari Colliery, P.O. Kusunda, Dhanbad— Complainant

Vs.

Employers in relation to Balihari colliery of Messrs Balihari Colliery Co., (P) Ltd., P.O. Kusunda, Dhanbad—Opp. Party.

Appearances:

On behalf of the complainant.—Shri S. V. Acharior, General Secretary, Hindustan Kham Mazdoor Sangh.

On behalf of the Opp. Party.—Shri S. S. Mukherjee, Executive Committee Member, Indian Colliery Owners Association,

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 23rd September 1968

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act, 1947 by Shri Durga Orang, a Pump Mazdur in Balibari colliery of Messrs Balibari Colliery Co. (P) Ltd. hereinafter referred to as the opposite party). The undispute facts giving rise to the complaint are these.

An industrial dispute regarding retrenchment of 376 workmen of the opposite party was pending adjudication on the file of this Tribunal as reference No. 148 of 1967 (the reference is since transferred to the Central Government Industrial Tribunal (No. 3), Dhanbad under Section 33 B of the Industrial Disputes Act 1947 by the order of the Central Government No. 8/71/68-LRII dated 13th August 1968). While the reference was pending before this Tribunal the opposite party found the complainant weak and infirm on account of his old age and was unable to discharge his normal duties satisfactorily and issued a letter dated 30th November 1967 asking the complainant to appear for medical examination at the opposite party's cost on 6th December 1967 before the Medical Board to check up the physical fitness of the complainant. The complainant sent a letter dated 2nd December 1967 to the opposite party denying that he was weak and infirm or unable to discharge his normal duties and apprehending that under the cover of medical examination the management of the opposite party intended to victimise him for his association with the Hindustan Khan Mazdoor Sangh and for his refusal to join the pocket union of the opposite party. As the complainant did not appear before the Medical Board on the directed date the opposite party issued a letter dated 15th December 1967 discharging the complainant from service with effect from 25th December 1967.

- 2. Now, the case of the complainant is that the dispute involved in the reference was sponsored by the Hindustan Khan Mazdoor Sangh, the same Sang is representing the complainant in the present complaint and that as such, the complainant is a workman concerned in such dispute. The opposite party is pampering a pocket union through coercion and intimidation of workmen. The complainant having refused to become a member of the puppet union, the management of the opposite party has victimised him by discharge on the false plea of being old and infirm. The Certified Standing Orders of the opposite party do not provide any age limit for retrenchment of the workmen nor do they give any power to the opposite party to call upon any workman to submit to any medical examination. The action of the opposite party in discharging the complainant without giving him any opportunity to defend himself was illegal. The opposite party contravened the provisions of Section 33 of the Industrial Disputes Act, 1947 in discharging the complainant. The opposite party filed their statement pleading that the complaint was not maintainable They justified the as the complainant was not a workman concerned in the reference. action taken by them against the complainant on the ground that they were within their right to get its employees examined by the Board of Medical Officers and in discharging the complainant when he did not appear before the Medical Board as directed by them. The opposite party denied that they had contravened the provisions of Section 33 of the Industrial Disputes Act, 1947 or that the action taken by them was with a view to victimise the complainant. The complainant was represented by Shri S. V. Acharior, General Secretary, Hindustan Khan Mazdoor Sangh and the opposite party by Shri S. S. Mukherjee, Executive Committee Member, Indian Colliery owners' Association. On admission by parties Exts. W1 to W3 were marked for the complainant and Exts. M1 to M3 for the opposite party. No witness was examined by any party.
- 3. Admittedly, in the reference the dispute involved relates to retrenchment of 376 workmen of Balihari colliery and the complainant is also a workman of the same colliery. But he is not one of the 376 workmen involved in the reference. The argument of Shri S. S. Mukherjee, the learned representative of the opposite party is that on this ground alone it must be held that the complainant is not a "workman concerned in such dispute", in terms of Section 33 of the Industrial Disputes Act, 1947 and as such, the complainant has no locus standi to come before the Tribunal under Section 33A of the Industrial Disputes Act, 1947. The matter is not as simple as that. The latest decision on the point is of the Patna High Court in New India Sugar Mills, Ltd., Darbhanga V, Krishna Ballabh Jha and others (1967-II-L.I. J 210), in which reference is made to several decisions of the Supreme Court. In New India Motors (Private) Ltd. V. Morris (1960-1-L.L.J 551) their Lordship of the Supreme Court held,

"Therefore, we are not prepared to hold that the expression workmen concerned! in such disputes can be limited only to such of the workmen who are directly concerned with the dispute in question".

In a later decision in Digwadih Colliery V. Ramji Singh (1964-II-L.L.J 143) their Lordship pointed out:

"Unless it is known as to what was the nature of the dispute pending in the said reference, it would be plainly impossible to decide whether the respondent was a workman concerned within the meaning of Section 33(2)".

Apart from others I find one very important common feature in the present complaint and in the reference which serves as a common link. In the complaint it is elaborately stated that the opposite party is against Hindustan Khan Mazdor Sangh and discharged the complainant from service to victimise him for his being a member of the above Saugh Ext. W2 is a statement filed on behalf of the workmen in the reference. In it it was complained that the opposite party had chosen to retrench the workmen and made them faco victimisation. Thus, I consider that the complainant is a workmen concerned in terms of Section 33 of the Industrial Disputes Act, 1947, and as such, discharge of the complainant by the opposite party without complying with the provisions of the section cannot sustain.

- 4. Even otherwise also, I do not find any justification on the part of the opposite party in discharging the complainant from service in the admitted circumstances. Firstly, there is no provision whatsoever in the Certified Standing Orders, Ext. W1 authorising the opposite party to issue an order to any employee to appear before a medical board to ascertain if he is fit for discharging his normal duties. Even if it is supposed to be a lawful or reasonable order, disobedience thereof is a misconduct within the meaning of order 29 of the Certified Standing Orders, Ext. W1 and, according to order 30 thereof the complainant could not be punished for it without a domestic enquiry being held. It is argued for the opposite party that the order of discharge passed against the complainant was not a punishment for his misconduct but it was an order of termination simpliciter. It is not the case of the opposite party that the complainant was a temporary employee and as such order 24 of the Certified Standing Orders could not be invoked. As per order 22 of the Certifled Standing Orders it is mandatory for termination of employees that a notice should be given in writing—one month's notice for monthly paid staff and one week's notice for weekly paid employees. Ext. M3 is the order dated 15th December 1967 issued by the opposite party discharging the complainant from service with effect from 25th December 1967. This letter cannot be construed as a notice contemplated under order 22 of the Certified Standing Orders, because the order of discharge was not passed after expiry of the notice period. No wages for the notice period were offered in the order, Ext. M3. Further Ext. M3 clearly shows that the complainant was discharged from service because he had refused to appear before the Medical Board. It is clear that the complainant was discharged because he had not obeyed the order of the opposite party by appearing before the Medical Board, which is a misconduct for which he could not be punished without holding a departmental enquiry. For these reasons also I find that the action taken by the opposite party cannot be upheld.
- 5. The complaint petition is, therefore, allowed and the order of discharge passed against the complainant by the opposite party on 15th December 1967 is set aside. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

Sd./- N. VENKATA RAO, Presiding Officer, Central Govt. Industrial Tribunal (No. 2) Dhanbad.

[No. 2/73/66-LRII.]

S.O. 3764.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the Jealgora Colliery of Messrs East Indian Coal Company, Post Office Jealgora, District Dhanbad, and their workmen, which was received by the Central Government on the 7th October, 1968.

HEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 130 of 1967

In the matter of an industrial dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the Jealgora colliery of Messrs East Indian Coal Company, Post office Jealgora, District Dhanbad.

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AND

Their workmen

APPEARANCES:

For the employers.—Shri S. S. Mukherjee, Advocate For the workmen.—None

STATE: Bihar

INDUSTRY: Coal.

Dhanbad, 19th September, 1968 29th Bhadra, 1890 Saka.

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Jealgora colliery of Messrs East Indian Coal Company, Post office, Jealgora, District Dhanbad and their workmen, by its order No. 2/28/66-LRII dated 21st March, 1966 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in reespect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

- "Whether the dismissal of Shri Hulas Pandey, Underground Trammer, with effect from the 26th May, 1965 and of Shri Sajivan, M. C. Loader, with effect from the 18th June, 1965, by the management of the Jealgora colliery of Messrs East Indian Coal Company were justified? If not, to what relief are the workmen entitled?"
- 2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 67 of 1966 on its file. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67/LRII dated 8th May, 1967. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 130 of 1967. Employers as well as the workmen filed their statement of demands.
- 3. The case of the workmen is that the departmental enquiries held against both the affected workmen were nothing but shows and that the affected workmen were not given opportunity to cross-examine the witness of the management and lead their evidence. It is also stated that the Enquiry Officer was not fair to the affected workmen. On the other hand it is pleaded on behalf of the employers that the two enquiries held against the two affected workmen were proper, in accordance with the principles of natural justice and fair. They further pleaded that the dismissal of the two affected workmen was justified. From the beginning workmen were represented by Shri S. S. Kapur, Advocate and the employers by Shri S. S. Mukherjee, Advocate. By consent of the employers Exts. W1 to W5 were marked for the workmen and by consent of the workmen, Exts. M1 to M6 were marked for the employers. On 17th September, 1968 Shri S. S. Kapur, Advocate, representing workmen submitted an application reporting no instructions. Inspite of waiting till 12 noon no one appeared on behalf of the workmen. Hence, the case proceeded in accordance with Rule 22 of the Industrial Disputes (Central) Rules, 1957, as though the workmen were present or duly represented. On behalf of the employers a witness was examined and Exts. M7 to M11 were marked.
- 4. The only point for determination is whether the domestic enquiries held against the two affected workmen were proper and in accordance with the principles of natural justice. MW1 had conducted the two enquiries. He was the Welfare Officer at the colliery during the material period. It is in his evidence that on 4th June, 1965 at about 4.30 p.m. he held the enquiry, that the affected workman, Shri Hulas Pandey came to the enquiry while the statement of Shri R. S. Sahani was being recorded and that the affected workman, Shri Hulas Pandey left the enquiry before the statement of the witness was concluded. The witness further deposed that the affected workman, Shri Hulas Pandey filed an application, Ext. M3 before the Manager to allow him to examine the defence witnesses. On the next enquiry date, 7th June, 1965, the affected workman, Shri Hulas Pandey attended the enquiry, declined to cross-examine any of the three witnesses examined for the management on the previous hearing and gave his own statement and examined 4 more witnesses in his defence. In respect of the other affected workman, Shri Sajivan was present:

throughout the enquiry held on 11th June, 1965, that he signed the enquiry proceedings, that he cross-examined all the four witnesses for the management, that he gave his own statement and that he also examined two witnesses in his defence. The charge-sheets issued to the two affected workmen are respectively, Exts. M1 and M5. The enquiry proceedings in respect of the affected workman, Shri Hulas Pandey are Ext. M7 and in respect of the other affected workman, Shri Sajivan are Ext. M10. The two enquiry reports are Exts. M8 and M11. The witness, MWI has categorically denied that the affected workman, Shri Hulas Pandey asked his permission during the enquiry to be assisted by any of his co-workers, that he had asked him to sign the paper which was already written in English and that on 11th June, 1965 he had threatened the other affected workman, Shri Sajivan. Having gone through the enquiry proceedings. I do not find anything to infer that the enquiries were not fair or that they violated the principles of natural justice in any manner. The charge, Ext. M1 against the affected workman, Shri Hulas Pandey was that on 25th May, 1965 he had quarrelled with the underground trammers and disobeyed the instructions of the Assistant Manager, that he had left the loads along with other trammers and that at the surface he tried to attack the Assistant Manager. The charge Ext. M5 against the affected workman, Shri Sajivan was that on 5th June, 1965 he did not allow a M. C. Loader to work in the underground, that he misbehaved with the Assistant Manager using abusive and filthy languages against him and that he was in a mood to assault the Assistant Manager bodily. The charges were very grave warranting the action taken by the employers. Thus, I find no substance in the case set up by the workmen.

5. I, therefore, hold that the dismissal of Shri Hulas Pandey, Underground Trammer, with effect from the 26th May, 1965 and Shri Sajivan, M. C. Loader, with effect from the 18th June, 1965 by the management of the Jealgora Colliery of Messr_s East Indian Coal Company was justified, and, consequently neither of the two affected workmen is entitled to any relief. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,
Presiding Officer,
Central Govt. Industrial Tribunal (No. 2)
Dhanbad.
[No. 2/28/66-LRII.]

New Delhi, the 14th October 1968

S.O. 3705.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Inudstrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Selected Kajora Jambad Colliery, Post Office Ukhra, District Burdwan and their workmen, which was received by the Central Government on the 9th October, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA REFERENCE No. 22 of 1968

PARTIES:

Employers in relation to the Selected Kajora Jambad Colliery,

And

Their workmen.

PRESENT:

Shri B. N. Banerjee-Presiding Officer.

APPEARANCES:

On behalf of Employers.—Shri S. N. Misra, Personnel Officer. On behalf of Workmen,—Shri S. N. Banerjee, Advocate.

STATE: -- West Bengal.

Industry: Coal Mines.

By Order No. 6/30/68-LRII, dated April 16, 1968, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following dispute, to this tribunal, for adjudication, namely:

· AWARD

"Whether the management of the Selected Kajora Jambad Colliery, Post Office Ukhra, District Burdwan was justified in terminating the services of S/Shri Kanai Lal Roy and Sushanta Kumar Sorcar, Electricians with effect from the 19th December, 1967.

If not, to what relief are these workmen entitled?"

2. At the hearing, the employer company was represented by Shri S. N. Misra, Personnel Officer, before this tribunal. The workmen concerned, whose cause was taken up by the Colliery Mazdoor Congress, Bengal Hotel, were represented by Shri S. N. Banerjee, Advocate. Mr. Misra, on behalf of the employer, company, and Mr. Banerjee, on behalf of the union, entered into an amicable settlement and filed a joint petition incorporating the terms of settlement. They prayed for an award in terms of the settlement.

I make an award accordingly. Let the petition of settlement, incorporating the terms, form part of the award.

Dated, October 4, 1968.

(Sd.) B. N. BANERJEE, Presiding Officer.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA...
REFERENCE No. 22 of 1968

Between the Employers in relation to the Selected Kajora Colliery,

AND

Their workmen represented by the Colliery Mazdoor Congress, Bengal Hotel, Asansol.

The humble petition of the parties above named in the aforesaid matter most respectfully sheweth:

That the parties named above have been able to reach an amicable settlement on the terms set out below.

That the parties consider the terms to be reasonable and just and prays for incorporation in the award of the Hon'ble Tribunal, in the aforesaid matter;

Terms of settlement

- (i) that the order of termination of services of S/Shri Kanai Lal Roy and Sushanta. Kumar Sorcar, with effect from December 19, 1967, shall stand,
- (ii) that the employer company shall pay to each of the above named workman a sum of Rs. 1,550 (Rupees One thousand five hundred and fifty) only in full and final settlement of their dues.
- (iii) that the payment of Rs. 1,550 to each of the above named workman will be made on October 18, 1968, before the Assistant Labour Commissioner (C) at Raniganj.

In the circumstances, the petitioners pray that your Lordship may pass an award in the aforesaid Industrial dispute on the aforesaid terms of settlement as being just and reasonable.

S. N. BANERJEE, Advocate.

P. K. DAS GUPTA, Org. Secy. CMC(HMS).

For Selected Kajora Jambled Coal Co...

Organising Secretary, Colliery Mazdoor Congress (HMS) (Bahula Burdwan).
For Workmen

(Sd.) Illegible; (for Employers) [No. 6/30/68-LRII.];

ORDERS

New Delhi, the 11th October 1968

S.O. 3706.—Whereas by the Order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment). No. 1/25/68-LRII-I, dated the 11th October, 1968, an industrial dispute between the employers in relation to the management of Dhansar Colliery of Messrs Pure Dhansar Coal, Company, Post Office Dhansar, District Dhanbad and their workmen has been referred to the Industrial Tribunal, Dhanbad for adjudication;

And whereas it is necessary to prohibit the continuance of a strike in existence in the Dhansar Colliery in connection with the said dispute;

Now, therefore, in exercise of the powers conferred by sub-section (3) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby prohibits the continuance of the strike in existence in connection with the said dispute in the said colliery.

S.O. 3707.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Dhansar Colliery of Messrs Pure Dhansar Coal Company, Post Office Dhansar, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted; under section 7A of the said Act.

SCHEDULE

- (i) Whether the management of Dhansar Colliery of Messrs Pure Dhansar Coal-Company, Post Office Dhansar, District Dhanbad was justified in dismissing: S/Shri Jago Gope and Kishun Singh, Underground trammers, with effect from the 14th August, 1968? If not, to what relief are these workmen entitled?
- (ii) Whether the management of Dhansar Colliery of Messrs Pure Dhansar Coal-Company, Post Office Dhansar, District Dhanbad is justified in not making payment of profit sharing bonus to their workmen for the accounting year 1966-67? If not, to what relief are the workmen entitled?

[No. 1/25/68-LRII-II.]

BALWANT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 11th October, 1968

S.O. 3708.—In exercise of the powers conferred by section 3 of the Commissions of Inquiry Act, 1952 (60 of 1952), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 2286, dated the 4th July, 1967, as amended from time to time, namely:—

In the said notification, in the second paragraph for the words and figures "before the 16th October, 1968", the words and figures "before the 1st April, 1969" shall be substituted.

[No. 17/10/66/LRIV.]

New Delhi, the 14th October 1968

S.O. 3709.—Whereas the Central Government, being satisfied that the public interest so required, had declared by a notification made in pursuance of the provisions of the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), [being the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 1418, dated the 10th April, 1968], the service in the uranium industry, to be a public utility service for the purposes of the said Act for a period of six months from the 20th April, 1968;

And whereas the Central Government is of the opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a further period of six months from the 20th October, 1968.

[No. F. 1/71/68-LRI.]

ORDERS

New Delhi, the 10th October 1968

S.O. 3710.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Allahabad Bank Limited, Chandni Chowk, Delhi, and their workman Shri Amar Singh Rathore in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Delhi, constituted under section 7A of the said Act.

SCHEDULE

"Whether the action of the Agent, Allahabad Bank Limited, Chandni Chowk, Delhi in terminating the services of Shri Amar Singh Rathore peon with effect from the 26th April, 1968 was legal and justified? If not, to what relief is the workman entitled?"

[No. 23/61/68-LR.III.]

New Dehli, the 14th October 1968

S.O. 3711.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Dalmia Dadri Cement Limited, Charkhi Dadri and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal, with Shri Ishwar Das Pawar as Presiding Officer with Headquarters at Chandigarh and refers the said dispute for adjudication to the Industrial Tribunal, Chandigarh

SCHEDULE.

Whether the action of the management of Messrs Dalmia Dadri Cement Limited, Charkhi Dadri, in terminating the services of Shri Kishan Chand Gupta, Quarry Clerk, with effect from the 30th June, 1968, was justified? If not, to what relief is he entitled?

[No. 36/25/68-LRI.]

S.O. 3712.—Whereas the Central Government is of opinon that an industrial dispute exists between the employers in relation to the management of Dalmia Dadri Cement Limited, Charkhi Dadri and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri Ishwar Das Pawar as the Presiding Officer with Headquarters at Chandigarh, and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the action of the management of Dalmia Dadri Cement Limited in terminating the employment of Shri Chuni Lal Quarry Chowkidar with effect from the 30th June, 1968, was justified? If not, to what relief is the workman entitled?

[No. 36/27/68-LRI,]

O. P. TALWAR, Under Secy.

(Department of Labour and Employment)

CORRIGENDUM

New Delhi, the 9th October 1968

S.O. 3713.—In the order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 2931,

dated the 31st August, 1968, published in the Gazette of India, Part II Section 3, Subsection (ii) at page 3932.

in the schedule, in line 1, for "Agents" read "Owners"

[No. 29(28)/68-LR-III.] C. RAMDAS, Under Secv.

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 27th August 1968

S.O. 3714.—In exercise of the powers conferred by Sub-Section (i) of Section (6) of the Administration of the Evacuee Property Act. 1950 (XXXI of 1950), the Central Government hereby appoints Shri B. B. Agarwal, Assistant Settlement Officer, in the office of the Assistant Settlement Commissioner Incharge, Lucknow as Assistant Custodian for the State of U.P. for the purpose of discharging the duties assigned to such officers by or under the said Act.

[No. 8(79)AGZ/66.]

New Delhi, the 24th September 1968

S.O. 3715.—In exercise of the powers conferred by sub-section (1) of section 3 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints the Land Claims Officer, Rehabilitation Department, Punjab Government, Jullundur to be an Assistant Settlement Commissioner in the State of Punjab for the purpose of performing, in addition to his own duties as Land Claims Officer, the functions assigned to an Assistant Settlement Commissioner by or under the said Act, in respect of (i) agricultural lands and shops in any rural area including houses, cattlesheds and vacant sites forming part of the Compensation Pool, and (ii) acquired evacuee agricultural lands in urban areas which he may be authorised to dispose of by the Regional Settlement Commissioner, Jullundur.

[No. 3(9)/L&R/66.]

A. G. VASWANI,

Settlement Commissioner (A) & Ex-Officio Under Secretary to the Government of India.